

NONSUBSTANTIVE

STATE OF CALIFORNIA OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 7-80)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER
		90-1106-07N		

For use by Office of Administrative Law (OAL) only

1990 NOV -6 PM 4: 07

OFFICE OF
ADMINISTRATIVE LAW
ENDORSED
APPROVED FOR FILING
DEC 06 1990

FILED
In the office of the Secretary of State
of the State of California

DEC 06 1990

AT 221 o'clock P.M.

MARCH-PONG EU, Secretary of State

Deputy Secretary of State

AGENCY	AGENCY FILE NUMBER (If any)
State Department of Social Services	RDB #1090-51

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

SECTIONS AFFECTED	ADOPT
	AMEND
	Division 6, Section 80078
TITLE(S)	REPEAL
22	

2. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code, § 11346)	<input type="checkbox"/> Resubmittal	<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)	<input type="checkbox"/> Emergency (Gov. Code, § 11346.1(b))
<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.			
<input type="checkbox"/> Print Only <input type="checkbox"/> Other (specify)			

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

N/A

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

<input type="checkbox"/> Effective 30th day after filing with Secretary of State	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> Effective other (Specify)
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5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify)		

6. CONTACT PERSON

Rosalie Clark, Chief, Regulations Development Bureau	TELEPHONE NUMBER 445-0313
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7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Linda S. McMahon

DATE

11-2-90

TYPED NAME AND TITLE OF SIGNATORY

Linda S. McMahon, Director

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Amend Section 80078 to read:

80078 RESPONSIBILITY FOR PROVIDING CARE AND
SUPERVISION (Continued)

80078

- (b) ~~Except as provided in Section 80078(b)(1)(A) /~~ In any instance where the Department does not suspend the facility license and the licensing agency requires that a client/resident be relocated because the client/resident has a health condition(s) which cannot be cared for within the limits of the license of the facility or which requires inpatient care in a licensed health facility the licensee shall prepare a written relocation plan. The plan shall contain all necessary steps to be taken to reduce stress to the client/resident which may result in transfer trauma.
(Continued)

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

FILED
In the office of the Secretary of State
of the State of California

DEC 06 1990

At 7:21 o'clock P.
MARCH FONG EU, Secretary of State
By *Michael Williams*
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: Social Services

OAL File No: 90-1106-07

John D. Smith

JOHN D. SMITH
Director

12/06/90

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER
		90-1119-02N		

For use by Office of Administrative Law (OAL) only

FILED
In the office of the Secretary of State
of the State of California

1990 NOV 19 PM 3:59

OFFICE OF
ADMINISTRATIVE LAW
ENDORSED
APPROVED FOR FILING
DEC 19 1990

DEC 19 1990

At 4:15 o'clock P.M.

MARCH FONG EU, Secretary of State

Michael K. Williams
Deputy Secretary of State

NOTICE

REGULATIONS

AGENCY	AGENCY FILE NUMBER (if any)
DEPARTMENT OF SOCIAL SERVICES	RDB# 1190-53

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

SECTIONS AFFECTED	ADOPT
	AMEND
TITLE(S)	REPEAL
22	Division 6, Chapter 10, Sections 89501 - 89945

2. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code, § 11346)	<input type="checkbox"/> Resubmittal	<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)	<input type="checkbox"/> Emergency (Gov. Code, § 11346.1(b))
<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.			
<input type="checkbox"/> Print Only <input type="checkbox"/> Other (specify)			

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4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

<input type="checkbox"/> Effective 30th day after filing with Secretary of State	<input type="checkbox"/> Effective on filing with Secretary of State	<input checked="" type="checkbox"/> Effective other (Specify) January 1, 1991
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5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify)		

6. CONTACT PERSON

Rosalie Clark, Chief Regulations Development Bureau

TELEPHONE NUMBER

(916) 445-0313

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Linda S. McMahon

DATE

11/15/90

TYPED NAME AND TITLE OF SIGNATORY

Linda S. McMahon, Director

NOTICE PUBLICATION/REGULATIONS SUBMISSION

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EMERGENCY REGULATIONS

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NOTICE FOLLOWING EMERGENCY ACTION

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CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for reoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Article 1. Policy and Definitions

89501 REGULATIONS SUPPLEMENT STATUTES

89501

Detailed requirements for supervision of life care contracts, enacted by Legislature, are included in the statutes, Chapter 10 of Division 2 of the Health and Safety Code (Section 1770 et seq.). These regulations supplement the statutory provisions, and it is necessary to refer to the statutes in order to use these regulations.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1770.5, 1770.7 and 1781, Health and Safety Code.

89502. DEFINITIONS

89502

(a) In addition to the definitions included in Health and Safety Code Section 1771, the following apply:

- (1) "Accommodation Fee" means the same as Entrance Fee.
- (2) "Accommodation Lease" means the same as Life Lease.
- (3) "Cancellation Period" (for Refund of Real Property): see Rescission, right of.
- (4) "Cancellation During Trial Residence Period" see Health and Safety Code Section 1779.6.
- (5) "Disaffirmance, Right of" see Rescission, Right of.
- (6) "Filing Fee" means the same as Processing Fee.
- (7) "Legal Entity" means a sole proprietorship, corporation, partnership, association, joint venture or other organization specifically designated as responsible for the facility's policy and operation.
- (8) "Life Lease" means a landlord/tenant relationship where in the tenant obtains only the right to possess a defined living unit for life. In a life lease there is no obligation, or intent, to provide care and services to the tenant at any time, present or future.

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89502 DEFINITIONS (Continued)

89502

- (9) "Per Capita Cost" means a facility's operating expenses divided by the average number of residents. Depreciation is excluded when computing cash per capita cost for calculating reserve requirements.
- (10) "Personal Care Unit" means a living unit within a physical area of a facility specifically designed to provide ongoing personal care as defined in Health and Safety Code Section 1569.2.
- (11) "Rescission, Right of" see Health and Safety Code Section 1771.2.

Note that the right of rescission is effective within a 90 day cancellation period which might not correspond with the 90 day trial residence period.

- (12) "Refund Reserve" means the amount calculated and deposited in a special trust fund, in accordance with Health and Safety Code Section 1775.5 to ensure the availability of funds for specified refunds of entrance fees.
- (13) "Subscriber" means the person who has applied to be a resident in a facility under development or construction, who has entered into a deposit subscription agreement.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1569.2, 1771, 1775.5, and 1779.6, Health and Safety Code.

89509 PUBLIC INFORMATION AND CONFIDENTIAL INFORMATION
IN THE POSSESSION OF THE DEPARTMENT

89509

Certified financial statements, compliance or noncompliance with reserve requirements, whether an application for a certificate of authority has been filed, whether a certificate has been granted or denied, and the type of care offered by the provider is public information and shall be provided upon request. Information regarding calculation of reserves, and resident data, shall be regarded by the Department as confidential.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1778, 1779 and 1782, Health and Safety Code; and Section 10850, Welfare and Institutions Code.

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89517 SALE OR TRANSFER OF FACILITY - PRIOR APPROVAL

89517

See Health and Safety Code Section 1787. In the absence of a complete novation (the substitution of a new legal obligor for an old one), the provider is required to set up a trust fund or to secure a performance bond to ensure the fulfillment of life care contract obligations.

The proposed new provider must obtain a license and a certificate of authority before executing any life care contracts.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1786 and 1787, Health and Safety Code.

89521 INSURANCE REQUIREMENTS FOR ESCROWED FUNDS 89521

Escrowed transferors' funds shall be placed in federally insured accounts. The amount of insurance provided must be sufficient to protect all escrowed funds. Additional escrow agents will be required to hold portions of deposit subscriptions or entrance fees in excess of the current limits on federal insurance.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1771(k), 1773.5, and 1781, Health and Safety Code.

89530 ESCROW AGREEMENT FORM

89530

The Department shall provide a sample Escrow Agreement Form on request.

(a) The escrow agreement shall provide for:

- (1) The amount of the processing fee, which is to be excluded from the escrow account, if the processing fee is paid with the deposit;
- (2) Deposit of funds in the escrow account;
- (3) Progress reports to the Department;
- (4) Investment of escrow account funds;
- (5) Release of escrow account funds as specified in Section 89543.

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89530 ESCROW AGREEMENT FORM (Continued)

89530

- (b) The escrow agreement shall state that the escrow agent for the project shall neither be a lender nor have fiduciary responsibilities to lenders and/or bondholders for that project.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1773.5 and 1780.6, Health and Safety Code.

89533 PROGRESS REPORTS BY ESCROW AGENT

89533

Regular progress reports on a monthly basis, shall be sent by the escrow agent directly to the Department. Reports shall show the name and address of each subscriber or resident, the designation of the living unit being provided, the total entrance fee for the unit, amounts deposited or refunded (in a separate column for each payment prescribed in the deposit subscription agreement or contract form), the unpaid balance of the entrance fee, and the current balance in the escrow account.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1773.5, 1773.7, 1773.8, 1773.9 and 1781, Health and Safety Code.

89535 EARNINGS FROM FUNDS IN ESCROW

89535

- (a) As instructed by the provider, escrowed funds may be invested as provided under Sections 89842 and 89844.
- (b) Earnings shall not be released except upon approval of the Department.
- (c) Departmental approval of release of earnings from funds in escrow shall be based upon an assessment that funds remaining in the escrow account will be sufficient to pay refunds and interest promised to all transferors, and all escrow agent administrative costs.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1773.5, 1773.9 and 1775, Health and Safety Code.

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Regulations

89543 RELEASE OF FUNDS FROM ESCROW

89543

The Department shall instruct the escrow agent to release escrowed deposit subscriptions or entrance fees to the provider when all of the following requirements are met:

- (a) The requirements stated in Health and Safety Code Section 1773.9. In applying such requirements:

The architect's statement shall be used to determine construction progress.

- (b) Licensing requirements at the time of release have been met.

- (c) The Department, in consultation with the Advisory Board, has determined that there has been substantial compliance with projected annual income statements which served as a basis for issuance of the permit to sell deposit subscriptions or the certificate of authority.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1773.9, 1775, 1780, 1781, 1784(a)(3), and 1790, Health and Safety Code.

89550 APPROVAL OR DENIAL OF APPLICATIONS

89550

- (a) Within 15 working days from the date of receipt of an initial application for a certificate of authority or a permit to sell deposit subscriptions, the Department shall acknowledge receipt of the application.

- (b) Within 45 calendar days of receipt of an application, the Department shall review the application for completeness and adequate documentation, and shall:

- (1) Notify the applicant of additional forms, documents, information, or materials required to comprise a complete application and allow the applicant 90 calendar days to submit the requested information or materials; or

- (2) Determine that the application is complete as submitted.

- (A) An application for a certificate of authority shall be deemed complete when the applicant has submitted all forms and documents required under Section 89613.

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REGULATIONS REGARDING SUPERVISION OF LIFE
CARE CONTRACTS

Regulations

89550 (Cont.)

89550 APPROVAL OR DENIAL OF APPLICATIONS (Continued)

89550

- (B) An application for a permit to sell deposit subscriptions shall be deemed complete when the applicant has submitted all forms and documents required under Section 89907.
- (c) Within 7 calendar days from the date SDSS determines that an application is complete, the Department shall approve the application or issue a Notice of Denial.
- (d) Based upon the Department's experience in issuing permits over a two-year period, processing time from receipt of the application to final permit decision was six calendar days, minimum; and 67 calendar days, maximum. The median time period was 28 calendar days.
- (e) The Notice of Denial shall:
- (1) Be in writing.
 - (2) State that the application is denied.
 - (3) List the reasons for the denial.
 - (4) Explain the right of appeal.
 - (5) State that the applicant has 30 days from the date that Notice of Denial was mailed to appeal the denial, and where to send his/her appeal.
- (f) If the applicant appeals the denial, further proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Section 15374, Government Code.

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89553 APPLICATION FEES 89553

(a) Each application for a Permit to Sell Deposit Subscriptions/Certificate of Authority shall include payment to the Life Care Provider Fee Fund of 80 percent of the application fee which is calculated pursuant, for the purposes of this subsection, to Health and Safety Code Section 1791(a)(1) as one-tenth of one percent of the estimated construction cost or purchase price of the facility.

(b) Payment to the Life Care Provider Fee Fund of the remainder of the application fee shall be made at or before the time of issuance of the provisional or final Certificate of Authority, whichever is issued first. The application fee shall be calculated pursuant to Health and Safety Code Section 1791(a)(1) as one-tenth of one percent of the actual construction cost or purchase price of the facility less the payment included with the application.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1791(a)(1) and 1793, Health and Safety Code.

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Article 2. Certificate of Authority

89613 APPLICATION FORMS AND ATTACHMENTS

89613

In addition to the provisions of Health and Safety Code Sections 1771.3, 1771.4, 1771.5, 1771.6, 1771.8, 1774, 1778, 1779, 1780, and 1783; and to the extent that the items are not in the Department's possession, the following shall apply:

- (a) Copies of appropriate written licenses or copies of preliminary approvals for licensure, issued by Department of Social Services, Community Care Licensing Division and/or the Department of Health Services, Licensing and Certification Division shall accompany the application.
- (b) Certification, required by Health and Safety Code Section 1771.4, shall be by a CPA or public accountant.
- (c) The requirement of Health and Safety Code Section 1774 shall be met by evidence that insurance or a bond is in effect for at least \$50,000 or the amount of the highest entrance fee, whichever is greater, as of the date of submitting annual audits and reports pursuant to Section 89804. This requirement is separate from the bonding requirements of the Community Care Licensing regulations.
- (d) Projected annual income statements, as prescribed in Health and Safety Code Section 1771.5, shall cover the entire duration of debt. Prevailing rates of interest, with no increases of revenues and expenses due to inflation shall be used as one set of assumptions.
- (e) A month-by-month statement of projected revenues and expenses during the fill-up period. The statement shall include the number of units projected to be occupied each month for the facility or project phase, and plans for compliance with marketing requirements of Health and Safety Code Sections 1773.6 and 1773.7 as applicable.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1569.151, 1770.7, 1771.3, 1771.4, 1771.5, 1771.6, 1771.8, 1773.7, 1773.8, 1774, 1778, 1779, 1780 and 1783, Health and Safety Code.

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**REGULATIONS REGARDING SUPERVISION OF LIFE
CARE CONTRACTS**

89618

Regulations

89618

CHANGES IN PROVIDER ORGANIZATION OR NAME

89618

See Regulations Section 89517 regarding prior approval of sale or transfer of a facility. If the provider undergoes an organizational change (e.g., change in structure, separation, merger, etc.), a new application shall be required and a new certificate must be issued by the Department before any life care contracts may be executed by the new entity.

A new application is not required for a corporation name change. If the provider is a corporation which undergoes a name change, the provider shall notify the Department of the name change and the old certificate shall be returned by the corporation for reissuance under the new corporate name.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1773.5, 1775, 1783 and 1786, Health and Safety Code.

89638

OBLIGATION TO PERFORM CONTRACTS

89638

The suspension, revocation by the Department, or voluntary return of the certificate of authority by the provider shall not release the provider from obligations assumed at the time the life care contracts were executed.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1770.7, 1784, 1785 and 1786, Health and Safety Code.

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Article 3. Requirements for Life Care Contracts

89700 PRIOR APPROVAL OF CONTRACT FORMS

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The requirements of Sections 1770.7, 1771, 1771.8(o), 1779, 1780, 1789, and other relevant sections of Chapter 10, Division 2 of the Health and Safety Code beginning with Section 1770 (Supervision of Life Care Contracts) and the provisions of this Article shall be the bases for approval by the Department pursuant to Section 1778 of the Health and Safety Code.

- (a) Contract forms approved by the Department shall include, in the same size type as the text of the contract, the following notice at the bottom of the signatory page:

NOTICE

(Date)

This is a life care contract as defined by Section 1771 of Chapter 10 of Division 2 of the California Health and Safety Code. This contract form has been approved by the State Department of Social Services as required by Section 1778. The basis for such approval was a determination that (provider name) has complied with specific requirements of the Statutes and Regulations beginning with Section 89500 of Title 22 of the California Administrative Code. Approval by the Department is neither a guaranty of performance nor an endorsement of contract provisions. Prospective transferors and residents are encouraged to carefully consider the benefits and risks of this contract before signing. You should seek financial and legal advice as needed.

- (b) After approval pursuant to this Article, the Department shall forward a copy of each contract to appropriate licensing agencies.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1770.7, 1771, 1771.8(o), 1778, 1779, 1780 and 1789, Health and Safety Code.

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89701	SIZE OF PRINT	89701
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All text in contract forms shall be printed in a type of at least 10-point size with boldface type used to highlight terms and conditions as required. Twelve character per inch (elite) typewritten copy with highlighted clauses underscored will comply with this requirement.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1779(a) and (e), Health and Safety Code.

89702	ACKNOWLEDGMENT OF RECEIPT OF COPY BY TRANSFEROR	89702
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The provider may require a written acknowledgment from the transferor (and the resident, if other than the transferor) that the executed copy of the contract and attachments have been received as specified by Health and Safety Section 1779.3.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Section 1779.3, Health and Safety Code.

89703	DESIGNATION OF CONTRACTING PARTIES	89703
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- (a) The legal name of the provider shall be shown as one of the contracting parties. The name of the facility may be used in the contract form as part of the address.
- (b) The resident shall be shown as one of the contracting parties.
- (c) If the transferor is someone other than the resident, the transferor shall be separately designated.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1770.7, 1771(x), 1779(g), and 1789.2, Health and Safety Code.

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REGULATIONS REGARDING SUPERVISION OF LIFE
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89709 STATEMENT OF SERVICES TO BE PROVIDED

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- (a) See Health and Safety Code Section 1779(b). The contract form shall clearly specify the services, if any, for which additional charges will be made. A separate statement of all services for which additional charges will be made and the fees for such services shall be given to the resident. In the event that certain specific services or items normally included in the general description of a service are excluded, such exclusions shall be clearly designated in the agreement: e.g., if ophthalmological or psychiatric services are excluded from the scope of medical services, the agreement shall so specify.
- (b) The contract form may be used for several types of plans offered by the provider, if it is clearly written so as not to be confusing. If this cannot be done, separate contracts shall be printed.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Section 1779, Health and Safety Code.

89713 STATEMENT OF PROPERTY TRANSFERRED

89713

- (a) The contract shall show all properties transferred, their value at the time of transfer, and how the value was ascertained. An itemized receipt which includes the information described above is acceptable, if incorporated as a part of the contract. The contract shall show the amount paid as the accommodation fee and the amount of any lump-sum care fee and/or the monthly care fee. In addition, the processing fee should also be shown separately.
- (b) With respect to the statement required on the deed or other instrument of conveyance, see Health and Safety Code Section 1779(i).

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89713 STATEMENT OF PROPERTY TRANSFERRED (Continued) 89713

- (c) In the event two parties have jointly paid either the accommodation fee and/or lump-sum care fee without segregating any part of said fee, or fees, for any particular person, the contract should give notice that one-half of the fee, or fees, so paid shall be deemed to be paid on behalf of each resident.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1779 (a) and (i), Health and Safety Code.

89718 FINANCIAL DISCLOSURE STATEMENT 89718

For a new provider unable to furnish a current financial statement which will accurately reflect the financial ability of the provider to fulfill the life care contract promises, the requirements of Health and Safety Code Section 1779(c) shall be met by attaching to the life care contract the provider's current certified financial statement, and any supplemental statements that have been submitted to the Department, together with an additional attachment that discloses all of the following:

- (a) That the reserve requirement has not yet been determined or met, but that entrance fees shall be held in escrow until the requirements of Section 89543 have been met;
- (b) That the ability to provide the services promised in the life care contract will depend on successful compliance with the approved financial plan; and,
- (c) The approved financial plan for meeting the reserve requirements.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1771.4, 1775, 1779(c), 1781, 1784(a)(3), and 1790, Health and Safety Code.

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89720 VOLUNTARY TERMINATION AFTER TRIAL RESIDENCE

The contract form shall specify the length of termination notice to be given to the provider after the trial residence. The agreement shall show the conditions under which any accommodation fee or lump-sum payment will be refunded. Any refunds specified by life care contracts in case of voluntary termination after the trial residence period shall be paid within 90 days after giving the prescribed notice, or 10 days after the resident makes the living unit available to the provider, whichever is later. The rate of amortization for entrance fees shall be subject to approval by the Department.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1770.7 and 1779(d), Health and Safety Code.

89721 TERMINATION BY DEATH 89721

(a) Death during the trial residence period shall constitute a cancellation which is subject to the provisions of Health and Safety Code Section 1779.3(b) unless a life care contract includes specific provisions otherwise.

(b) Any refunds specified by life care contracts in case of death after the trial residence period shall be paid within 90 days after death or 10 days after the living unit is made available to the provider, whichever is later.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1770.7, 1779(d) and 1779.3(b), Health and Safety Code.

89725 DISMISSAL BY THE PROVIDER 89725

The contract form shall state that dismissal or discharge of a life care resident after the completion of the probationary or trial period shall be only for good and sufficient cause. The contract form shall also specify the amount of dismissal notice to be given to the resident. At least 90 days written notice is required.

The contract form shall provide for refunds, in accordance with Section 1780 of the Health and Safety Code, to any resident who is dismissed by the provider after the trial residence period. Refunds shall be paid within 10 days of the date that possession of the living unit is made available to the provider.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1770.7, 1779 and 1780, Health and Safety Code.

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89726 REFUNDS TO RESIDENTS 89726

- (a) Refunds for cancellation during the trial residence period shall be made as specified by the notice of cancellation, see Health and Safety Code Sections 1779(f) and 1779.3(b).
- (b) Refunds for voluntary termination after the trial residence period shall be made in accordance with the approved contract terms. See Section 89720.
- (c) Refunds for dismissal after the trial residence period shall be made in accordance with Health and Safety Code Section 1780. In calculating the per capita cost, depreciation of real property improvements, and furnishings may be included and services in-kind (donated services) shall be excluded. Per capita cost shall be calculated for each year of residence, except prior year data may be used to calculate refunds in the year of separation.
- (d) Processing fee. The provider is permitted to retain the processing fee.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1778, 1779.3, 1780 and 1781, Health and Safety Code.

89729 PAYMENT OF REQUIRED FEES 89729

Contracts which require the payment of a monthly care fee or other periodic fee shall clearly stipulate that occupancy and use of the accommodations by the resident is contingent upon the regular payment of the fee. The contract shall include the regular rate of payment agreed upon (per day, week or month) and a clear statement as to whether payment will be made in advance or after care has been given.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Section 1779, Health and Safety Code.

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89730 BASIS FOR CHANGING MONTHLY CARE FEES

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- (a) The contract form shall provide for any one of the following basic methods for calculating changes in fees:
- (1) Fees shall not be subject to change during the lifetime of the agreement.
 - (2) Fees shall not be increased by more than a specified number of dollars in any one year and not more than a specified number of dollars during the lifetime of the agreement.
 - (3) Fees shall not be increased in excess of a specified percentage over the preceding year and not more than a specified percentage during the lifetime of the agreement.
 - (4) Fees shall be adjusted in accordance with the change in the provider's per capita cost, which may include depreciation or amortization of and interest on mortgage indebtedness in lieu of depreciation.
 - (5) Fees shall be adjusted in accordance with changes in the Consumer Price Index (cost-of-living).
 - (6) Fees shall be based on projected costs, prior year per capita costs, and economic indicators.
- (b) The contract shall provide for notification of the resident at least 30 days in advance of any change in scope or price of any component of care and services.
- (c) For the provider whose property is tax exempt, provision may be made that in the event it is required to pay property taxes, or in-lieu taxes, at some future date, such additional costs will be charged to the resident on a pro-rata basis.

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NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1770.7, 1779(a) and 1781, Health and Safety Code.

89733 PROVISION FOR SUBSIDIZED RESIDENTS

89733

Provision may be made in the contract for residents who become financially unable to pay for their monthly care fees at some future date. The contract may stipulate that the resident shall apply for any public assistance or other aid for which eligible and that the provider may apply on behalf of the residents.

The provider shall be the final and conclusive determining body of any adjustments to be made or any action to be taken regarding any charitable consideration to be extended to any of its residents.

Since any fees set by the provider for a resident who is subsidized in whole or part by the provider are based upon representations made by the resident at the time of application as to his/her financial position and assets, the contract should provide for the payment or entitlement of actual costs of care from any property acquired by the resident subsequent to the adjustment or from any property not disclosed by the resident at time of application.

The provider may pay the monthly premium of the resident's health insurance coverage under Medicare to insure that such payments will be made. The provider may receive an assignment from the resident of the right to apply for and to receive said benefits, for and on behalf of the resident. The provider may also include a provision to the effect that it shall not be responsible for the costs of furnishing the resident with any services, supplies and medication for which reimbursement is available from any governmental agency.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1770.7, 1779 and 1781, Health and Safety Code.

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89735 CHANGE OF ACCOMMODATIONS

- (a) The contract shall provide for the transfer of a resident, when, in the opinion of the staff physician or appropriate specialist when necessary, any of the following conditions exist:
- (1) Resident is unable to leave the room without the assistance of another person during an emergency and such room is not approved by the State Fire Marshal for use by nonambulatory residents.
 - (2) Resident becomes mentally ill.
 - (3) Transfer to the facility's infirmary or personal care unit is required for more efficient care and/or to protect the health of other residents, or
 - (4) Transfer to a nursing home or hospital care is required and the provider has no facilities available for such care.
- (b) The general procedures and conditions under which such transfers are to be made shall be clearly stated in the contract. The contract shall state the financial adjustment to be made for a resident who permanently moves to a personal care unit, nursing home, or hospital and releases his or her accommodations.
- (c) If the provider has any responsibility to resume care, the conditions shall be covered in the contract. The contract shall specify a refund provision at the time the resident leaves his or her accommodations if the provider does not accept responsibility upon the resident's release.
- (d) Whenever the provider needs to move a resident from one living accommodation to another, the resident shall be entitled to one of equivalent value or to an adjustment of the accommodation fee.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1770.5 and 1779, Health and Safety Code.

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PROVISIONS FOR SHARED ACCOMMODATIONS

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Where the room or suite is shared, provision for the death or removal of one of the residents must be included in the contract. Movement to another living unit within the same facility shall, to the extent possible, be at the discretion of the remaining resident and dependent upon the availability of another unit. The contract shall specify how the monthly rate is affected. The contract shall specify any refund of accommodation fees to be made.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1770.7, 1779 and 1781, Health and Safety Code.

89741

MEDICAL HISTORY

89741

The contract may contain provisions which limit responsibility for costs associated with the treatment or medication of an ailment or illness existing prior to the date of admission. In such case, the medical or surgical exceptions, as disclosed by the medical entrance examination, shall be listed in the contract or in the medical report which may be attached to and made a part of the contract.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1779 and 1781, Health and Safety Code.

89743

CARE AWAY FROM THE FACILITY

89743

The contract shall state whether any reimbursement is to be made by the provider for the support, maintenance, board or lodging which is supplied to a resident who requires medical attention when he or she is absent from the facility. Costs of outside medical services may be paid for at the discretion of the provider and any limitations shall be specified in the contract.

The contract should designate if any credit or allowance is to be given to a resident who is absent from the facility or from meals. If such credit is to be permitted at the discretion or by special permission of the provider, the contract shall so specify.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1770.7 and 1779, Health and Safety Code.

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89747 NO PROPRIETARY INTEREST BY RESIDENT

The contract may include a provision indicating that the resident's rights under the contract do not include any proprietary interest in the assets of the provider.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1777, 1779 and 1781, Health and Safety Code.

89751 MISREPRESENTATIONS BY RESIDENT

89751

The provider may include applicable legal remedies in the contract in case any material misrepresentation or omission pertaining to assets or health has been made by the resident.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Section 1781, Health and Safety Code.

89755 RIGHTS NOT TRANSFERABLE

89755

The contract may include a clause which restricts transfer or assignment of the resident's rights and privileges under a life care contract because of the personal nature of the contract.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1779 and 1781, Health and Safety Code.

89757 WAIVER OF ONE BREACH NOT A WAIVER OF ANY OTHER

89757

The contract may include a clause for the protection of the provider in instances where it may wish to waive any of the terms or provisions of the contract in specific instances where the resident has breached the contract without relinquishment of its right to insist upon compliance by the resident with all of the other terms or provisions.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1779 and 1781, Health and Safety Code.

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89759 RESIDENT LIABILITY FOR NEGLIGENCE 89759

The contract may provide for the reimbursement of any loss or damage beyond normal wear and tear suffered by the provider as the result of carelessness or negligence on the part of the resident.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1779 and 1781, Health and Safety Code.

89761 INJURIES TO THE RESIDENT 89761

The provider shall not attempt to absolve itself in the contract from liability for past or future negligence by an agreement to that effect. The contract may provide that the resident agrees to observe off-limit areas as designated by the provider.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Section 1770.7, Health and Safety Code.

89763 THIRD-PARTY LIABILITY 89763

In the case of injury to a resident caused as a result of the act or negligence of a third party, the provider may include a provision in the contract providing for the subrogation to the provider of the resident's rights against such a third party, and for a lien on any judgment, settlement or recovery, for any additional expense incurred by the provider in caring for the resident as a result of injury, and requiring the cooperation of the resident in assisting in the diligent prosecution of any claim or action against said third party.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1779 and 1781, Health and Safety Code.

89769 APPOINTMENT OF CONSERVATOR OR GUARDIAN 89769

Provision may be made in the contract for the appointment of a conservator or guardian by a court of competent jurisdiction in the event a resident becomes unable to handle his or her personal or financial affairs.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1779 and 1781, Health and Safety Code.

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Article 4. Financial Reporting

89804 PREPARATION OF ANNUAL AUDIT AND REPORTS

89804

Detailed instructions for preparing annual audits and reports shall be provided by the Department.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1774, 1782, 1782.5 and 1784, Health and Safety Code.

89834 LIFE EXPECTANCIES OF LIFE CARE RESIDENTS

89834

(a) Based on analysis of actual resident data, the Department, in consultation with Department of Insurance, has determined the following life expectancies which shall be used in the calculation of the statutory reserve requirement except as otherwise prescribed in Health and Safety Code Section 1775:

Age	Females	Males	Age	Females	Males
62	23.392	17.803	80	10.391	8.173
63	22.653	17.289	81	9.803	7.717
64	21.911	16.769	82	9.233	7.301
			83	8.713	6.899
			84	8.221	6.500
65	21.167	16.244	85	7.758	6.109
66	20.418	15.715	86	7.335	5.755
67	19.666	15.180	87	6.930	5.432
68	18.910	14.642	88	6.525	5.117
69	18.153	14.099	89	6.128	4.818
70	17.394	13.553	90	5.762	4.551
71	16.636	13.004	91	5.437	4.310
72	15.878	12.452	92	5.126	4.079
73	15.117	11.897	93	4.829	3.859
74	14.387	11.340	94	4.546	3.649
75	13.663	10.780	95	4.276	3.449
76	12.954	10.217	96	4.019	3.258
77	12.293	9.661	97	3.776	3.077
78	11.635	9.146	98	3.544	2.905
79	10.998	8.653	99	3.325	2.742
			100	3.118	2.587

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89834 LIFE EXPECTANCIES OF LIFE CARE RESIDENTS (Continued) 89834

- (b) It is Department policy not to require reserves for residents who are over 100 years of age. Therefore, use a life expectancy of zero for such persons in computing the statutory reserve requirements.
- (c) As authorized by Health and Safety Code Section 1775, the Department has determined that no interest assumption shall be used to adjust resident life expectancies in conjunction with the computation of the statutory reserve requirement.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1775 and 1782, Health and Safety Code.

89842 CASH ON DEPOSIT 89842

In addition to the provisions of Health and Safety Code Sections 1775(a) and (b), the following apply:

- (a) Banks or savings and loan associations shall have been licensed or chartered to operate and have conducted business in the State of California for a continuous period of five years or more.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1775 and 1782, Health and Safety Code.

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89844 SECURITIES

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In addition to the provisions of Health and Safety Code Section 1775(d) and (h), the following apply:

- (a) Highly liquid money securities, such as United States Treasury Bills, prime banker's acceptances, negotiable time certificates of deposit and short-term tax exempt notes may be included in the reserves at current market value.
- (b) Common stocks rated "above average" or higher by any national rating agency may be included in the reserves in addition to those individually approved by the Department. For example, a rating of A+, A, or A- by Standard and Poor's Corporation is required for common stock, not otherwise approved, to be included in the reserves. Include approved common stocks at current market value.
- (c) Preferred stocks rated "above average" or higher by any national rating agency may be included in the reserves. For example, a rating of AAA, AA, or A by Standard and Poor's Corporation is required for preferred stock to be included in the reserves. Include approved preferred stocks at current market value.
- (d) Bonds issued by the U.S. Government or Federal agencies are all acceptable for reserves at the current market value.
- (e) Non Federal bonds are acceptable for reserves at current market value if they have a current rating of at least "A" by Moody's Investors Service, Standard & Poor's Corporation, or Fitch Investors Service and they are listed on a national securities exchange.
- (f) Bonds which are not listed on a national securities exchange but are traded over-the-counter must have a current rating of at least "AA" by Moody's Investors Service or at least "AA" by Standard & Poor's Corporation or Fitch's Investors Service to be acceptable for reserves at current market value.
- (g) The cash surrender value of life insurance policies assigned by residents to the facility may be included as securities of the provider.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1775 and 1782, Health and Safety Code.

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89845 RESTRICTED FUNDS

- (a) The Department shall accept a sinking fund comprised of liquid assets to be included in the liquid reserves if it is a replacement fund subject to disbursement during the succeeding year for such items as payment of principal and interest on mortgage or for operations.
- (b) Replacement funds which may only be used for capital improvements or repairs shall not be included in liquid reserves. Replacement funds which may be used for operational costs or payments on mortgages or loans (or interest thereon) shall be permitted to be included in the liquid reserves.
- (c) Deposits made prior to signing a life care contract, represent liabilities and shall be offset against liquid assets, if any, otherwise against any other assets.
- (d) Deposits which represent funds turned over to the facility by residents for safekeeping without relinquishing control thereof shall be offset against liquid assets, if any, otherwise against any other assets.
- (e) Deposit subscriptions or accommodation fees retained in escrow as required in Sections 89943(c) and (d) shall be regarded as assets available for liquid reserves.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Section 1782, Health and Safety Code.

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89847	FACILITY PROPERTY APPRAISAL	89847

In addition to the provisions of Health and Safety Code Section 1775(e), the following apply:

- (a) An acceptable method of appraisal is book value based on cost less depreciation, and encumbrances.
- (b) Appraised value shall be approved by the Department prior to being included in the Statement of Assets Available for Reserves. The provider shall request the Department's prior written approval of proposed appraisers other than the county assessor or a member of the American Institute of Real Estate Appraiser (MAI). In the event the book value method of appraisal is used the provider shall request the Department's prior written approval of proposed appraisers other than Certified Public Accountants.

All appraisals shall show the basis and method of valuation. The Department may require technical reports to be verified and/or certified. The expense of any technical reports or any verifications thereof shall be borne by the provider.

NOTE: Authority cited: Section 1782, Health and Safety Code. Reference: Sections 1775 and 1782, Health and Safety Code.

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89848 INCREASES TO ENCUMBRANCES ON FACILITY PROPERTY

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- (a) Because of the possible effect on assets available for reserves, a provider contemplating capital financing which would entail a mortgage or deed of trust with respect to any property on which a resident resides pursuant to a life care contract shall provide the Department with:
- (1) A written notification at least 90 days prior to the execution of the proposed deed of trust transaction;
 - (2) An analysis of the impact that the contemplated encumbrance of real property would have on assets available for reserves required by Section 1775, Health and Safety Code.
 - (3) An analysis of the sources of funds for principal and interest to repay the contemplated loan.
- (b) If the Department determines that the proposed capital financial transaction will materially increase monthly fees or impair the ability to maintain the minimum reserves required, the Department may record a notice of lien on the provider's property pursuant to Section 1772, or take such other action as it determines to be in the best interest of the life care residents.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1775, 1777, 1781 and 1784(a), Health and Safety Code.

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89849 INVESTMENT PROPERTY

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In addition to the provisions of Health and Safety Code Section 1775(g), the following applies:

(a) Reserves shall include book value based upon cost less depreciation unless use of appraised market value is approved by the Department. Any encumbrances standing against the investment property shall be deducted from the net book value or from the appraised value less depreciation to compute the value for reserves.

(b) Investments owned by the provider and located outside the State of California may be included in the reserves.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1775 and 1782, Health and Safety Code.

89852 REFUND RESERVE TRUST FUND 89852

(a) Each refund reserve trust fund shall be established at an institution qualified to be an escrow agent, pursuant to an agreement between the provider and said institution based on Health and Safety Code Section 1775.5(c) and approved in advance by the Department.

(1) The agreement shall specify that neither principal nor earnings may be withdrawn from the fund without prior written approval by the Department.

(2) Circumstances for Departmental approval of withdrawals from the fund shall be limited to a reduction in the refund reserve requirement due to annual determination.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1771(k), 1772, 1775.5 and 1782.5, Health and Safety Code.

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ANNUAL PROVIDER FEES

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Each annual audit and report shall include a payment to the Life Care Provider Fee Fund in the amount of one-tenth of one percent of the portion of total operating expenses, excluding debt service and depreciation, from audited income statements, which has been allocated to life care contract residents. Such allocation shall be based on the ratio of the mean number of life care residents to the mean number of total residents.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Section 1791(a)(2) and 1793, Health and Safety Code.

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Article 5. Permit to Sell Deposit Subscriptions on Life Care Contracts

89903 ELIGIBILITY FOR PERMIT

89903

Repealed by Manual Letter No. LCC-89-01, issued 7/1/89.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference:
Reference: Section 1781, Health and Safety Code.

89907 FILING APPLICATION FORMS AND ATTACHMENTS

89907

The application for permit to sell deposit subscriptions on life care contracts shall be completed on forms prescribed and supplied by the Department. A separate application shall be required for each proposed project. The following items shall be attached to the application form or submitted before the permit is issued.

- (a) Documentation otherwise required by Section 89613 for a Certificate of Authority application.
- (b) The proposed deposit subscription agreement form. The Department shall provide a sample form on request.
- (c) The proposed escrow agreement form as required under Section 89530.
- (d) The name of the proposed escrow agent for approval by the Department. When the approved escrow agreement form has been executed by an escrow agent approved by the Department, a copy shall be provided to the Department.
- (e) A copy of any advertising material regarding the proposed project prepared for distribution or publication may be submitted after the application has been filed.
- (f) A statement by the applicant(s) that they will keep the Department informed of any changes to the project plan as reflected in the application form and attachments.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference:
Section 1773.5, Health and Safety Code.

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REGULATIONS REGARDING SUPERVISION OF LIFE
CARE CONTRACTS

Regulations

89909

89909 DEPOSIT SUBSCRIPTION AGREEMENT FORM

89909

(a) The deposit subscription agreement shall provide for the following:

- (1) An estimated date for completion not to exceed 36 months from the date of application.
- (2) The identification of the unit subscribed to and the total accommodation fee for that unit.
- (3) Processing fee terms and conditions, including:
 - (A) The amount, which shall be subject to approval by the Department;
 - (B) A statement explaining the provider's policy regarding refund or retention of the processing fee in the event of voluntary termination or death of the subscriber;
 - (C) Notice that the processing fee shall be refunded within 30 days in the event that the subscriber is not accepted for occupancy, or if the facility is not constructed by the estimated date of completion and the Department determines that there is not satisfactory cause for such delay.
- (4) Requirements for deposit subscription payments by the subscriber.
- (5) A refund of deposit subscription payments within 30 days of notice of death of the prospective resident or his/her nonacceptance for residency.
- (6) Refund of deposit subscription payments within 30 days of notice of voluntary termination by prospective residents, except during construction of the facility when such refunds shall be made only after another prospective resident has reserved the unit and paid the necessary deposit subscription payments.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Section 1773.5, Health and Safety Code.

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REGULATIONS REGARDING SUPERVISION OF LIFE	89925
CARE CONTRACTS	
Regulations	

89921 AMENDED APPLICATION

89921

(a) Proposed changes of corporate name, organization, operation or financing shall be submitted to the Department for review and approval.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Section 1773.5, Health and Safety Code.

89922 REQUIRED NUMBERS OF DEPOSIT SUBSCRIPTIONS

89922

Repealed by Manual Letter No. LCC-89-01, issued 7/1/89.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Section 1781, Health and Safety Code.

89923 REVOCATION OF PERMIT

89923

A permit shall be cancelled or revoked by the Department if the provider fails to conform to the requirements of Sections 1773.5, 1773.8, 1782.5 or other sections of the Health and Safety Code and this Article relevant to a significant change or deviation from the circumstances indicated in the application documents, without departmental approval in consultation with the advisory board. The provider whose permit to sell deposit subscriptions is revoked shall have right of appeal to the Department. The proceedings shall be conducted in accordance with Chapter 5, (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code. A revocation shall remain in effect until completion of such proceedings in favor of the applicant.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1770.7, 1773.5, 1773.8 and 1782.5, Health and Safety Code.

89925 ESCROWED DEPOSIT SUBSCRIPTIONS NOT TO BE USED FOR COLLATERAL

89925

Repealed by Manual Letter No. LCC-89-02, effective 10/12/89.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Sections 1773.5, 1779.3(b), 1780 and 1781, Health and Safety Code.

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89927 SUBSCRIPTION PAYMENTS PROCESS 89927

- (a) No deposit subscription or processing fee shall be collected until the required permit to sell deposit subscriptions is issued by the Department. Deposit subscription payments shall be paid by check, draft or money order payable to the permit holder and the escrow agent.
- (b) The processing fee may be paid directly to the provider since it is the only fee which is not subject to escrow.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Section 1773.5, Health and Safety Code.

89929 DEPOSITS TO THE ESCROW AGENT 89929

Payments pursuant to deposit subscriptions shall be made to the escrow agent within two business days after their receipt from subscribers and shall be separately accounted for by the provider. Deposits shall be accompanied by a copy of the executed deposit subscription agreement, a copy of the receipt given to the subscriber, and a deposit summary.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Section 1773.5, Health and Safety Code.

89941 CHANGES TO DEPOSIT SUBSCRIPTION AGREEMENT FORM 89941

Changes to deposit subscription agreement forms, after approval by the Department in conjunction with the application for a permit to sell deposit subscriptions shall require prior approval by the Department.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Section 1773.5, Health and Safety Code.

89945 EXTENDING DATE OF COMPLETION 89945

Any requests for extensions of date of completion beyond 36 months from the date of application for the permit to sell deposit subscriptions shall be made to the Department in writing, and any extension of the permit to sell deposit subscriptions will be conditioned upon consultation with subscribers.

NOTE: Authority cited: Section 1781, Health and Safety Code. Reference: Section 1773.5, Health and Safety Code.

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OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION
OF
APPROVAL

FILED
In the office of the Secretary of State
of the State of California

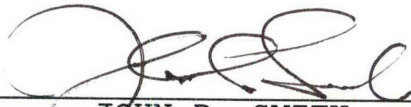
DEC 19 1990

At 4:15 o'clock P.M.
MARCH FONG EU, Secretary of State
By Stichale L. Williams
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: Social Services

OAL File No: 90-1119-02


JOHN D. SMITH
Director

12/19/90

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 7-90)

90-1214-04R

OAL FILE NUMBERS	NOTICE FILE NUMBER z-89-0425-01	REGULATORY ACTION NUMBER 90-0928-04R	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER 90-0502-03S
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For use by Office of Administrative Law (OAL) only

1990 DEC 14 PM 4:15

OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

DEC 21 1990

FILED

In the office of the Secretary of State
of the State of California

DEC 21 1990

At 4:13 o'clock P.M.

MARCH FONG EU, Secretary of State

By *Michael S. Williams*
Deputy Secretary of State

NOTICE	REGULATIONS
AGENCY Department of Social Services	AGENCY FILE NUMBER (if any) 0188-03

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action, <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER 89, #182	PUBLICATION DATE 5/5/89		

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

SECTIONS AFFECTED	ADOPT
	AMEND 101196, 101203, 101204, 80045, 80052, 80053, 80054, 87452, 87453, 87454
	REPEAL
TITLE(S) 22	

2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346) ☒ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify)

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

November 14, 1990 through November 29, 1990 101205 (d) and 87454 (e)

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☒ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☐ Effective other (Specify)

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify)

6. CONTACT PERSON

Rosalie Clark, Chief, Regulations Development Bureau

TELEPHONE NUMBER

445-0313

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Linda S. McMahon

DATE

12-13-90

TYPED NAME AND TITLE OF SIGNATORY

Linda S. McMahon, Director

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READoption

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

UPDATED INFORMATIVE DIGEST

These proposed revisions to community care licensing regulations would implement, interpret or make specific the provisions of Assembly Bill (AB) 1676, Chapter 1372, the Statutes of 1985. AB 1676 authorizes the State Department of Social Services to increase civil penalties for community care facility licensees who have repeated or continuing violations.

Under previous law, any person who violated any provision of the California Community Care Facilities Act was guilty of a misdemeanor and could be fined up to \$1,000 or imprisoned up to 180 days, or both. Previous law also permitted the State Department of Social Services to levy a civil penalty not to exceed \$50 per day for noncompliance by a community care facility with applicable statutes and regulations.

Effective January 1, 1986 AB 1676 (Chapter 1372, Statutes of 1985) and SB 387 (Chapter 1110, Statutes of 1985) amended Sections 1548, 1569.49 and 1596.99 of the Health and Safety Code to permit that 1) civil penalties may be levied in addition to the penalties of suspension or revocation of a license; 2) the civil penalty shall not be less than \$25.00 nor more than \$50.00 per day for each violation except where the nature, seriousness or frequency of these factors warrants a higher or immediate civil penalty or both, but in no event shall a civil penalty exceed \$150.00 per day; 3) citations issued for a repeated serious deficiency shall be subject to an immediate civil penalty of \$150.00 and \$50.00 per day thereafter until corrected, and 4) facilities cited for the immediate \$150.00 and \$50.00 per day thereafter and which repeat the deficiency shall be subject to an immediate assessment of \$150.00 and \$150.00 per day thereafter until corrected.

Subsequent to the notice of public hearing for the proposed regulations, Senate Bill (SB) 1166, Chapter 1115, Statutes of 1989 amended, among other things, Section 1569.49 of the Health and Safety Code which changed the penalty amount for Residential Care Facilities for the elderly. SB 1166, Section 21(d) states:

"(d) Any residential care facility for the elderly that is assessed a civil penalty pursuant to subdivision (c) which repeats the same violation of this chapter within 12 month of the violation subject to subdivision (c) *** shall be assessed an immediate civil penalty of one thousand dollars (\$1,000) and one hundred *** dollars (\$100) for each day the violation continues until the deficiency is corrected.

The department shall adopt regulations implementing this section."

These proposed regulations would implement the provisions of SB 1166, Chapter 1115, Statutes of 1989.

This proposal modifies the following sections of the regulations pertaining to deficiencies in California Code of Regulations (CCR) Title 22, Chapter 1 of Division 6 (Community Care Facilities), Chapter 8 of Division 6 (Residential Care Facilities for the Elderly) and Chapter 1 of Division 12 (Child Day Care), to reflect the amendments to Sections 1548, 1569.49 and 1596.99 of the Health and Safety Code.

In addition, these proposed regulations would enhance the Department's ability to achieve compliance with the regulations by levying monetary fines in increased amounts to those facilities who are repeatedly out of compliance.

Based on testimony, the Department amended proposed Section 101205 subitems (d) and (e) to provide a 12-month time frame for repeated violations which require the higher immediate penalty assessment.

On June 1, 1990, the Office of Administrative Law (OAL) disapproved the filing of the proposed Three-Tier Civil Penalty regulations. One of the reasons cited by OAL for disapproving the proposed regulations was lack of consistency with existing statutes. Proposed Sections 80054 and 87454 based the imposition of higher and immediate penalties on the repetition of a serious deficiency. OAL pointed out in their decision of disapproval that the Health and Safety Code contains no such qualifying language and that these penalties are activated only by the frequency of a violation, not its gravity. Also, effective January 1, 1990 Health and Safety Code Section 1569.49(d) was amended to require a higher immediate penalty of one thousand dollars (\$1,000).

On October 26, 1990, the Office of Administrative Law (OAL), again, disapproved the filing of the Three-Tier Civil Penalty regulations. After receipt of OAL's June 1, 1990 Decision of Disapproval the Department changed the amount of the immediate civil penalty required by Section 87454(e) to one thousand dollars (\$1000) but failed to change the subsequent daily amount from one hundred-fifty dollars (\$150) to one hundred dollars (\$100). Also, the term "serious" was inadvertently deleted from Section 101205(d). These errors have been corrected and explained in the final modification section of the Final Statement of Reasons. A 15-day comment period was provided as required by the government code.

FINAL STATEMENT OF REASONS

a) Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulations are Intended to Address

Effective January 1, 1986 AB 1676 (Chapter 1372, Statutes of 1985) and SB 387 (Chapter 1110, Statutes of 1985) amended Section 1548, 1569.49 and 1596.99 of the Health and Safety Code to permit that 1) civil penalties may be levied in addition to the penalties of suspension or revocation of a license; 2) the civil penalty shall not be less than \$25.00 nor more than \$50.00 per day for each violation except where the nature, seriousness or frequency of these factors warrants a higher or immediate civil penalty or both, but in no event shall a civil penalty exceed \$150.00 per day; 3) citations issued for a repeated serious deficiency shall be subject to an immediate civil penalty of \$150.00 and \$50.00 per day thereafter until corrected; and 4) facilities cited for the immediate \$150.00 and \$50.00 per day thereafter and which repeat the deficiency shall be subject to an immediate assessment of \$150.00 and \$150.00 per day thereafter until corrected.

Subsequent to the notice of public hearing for the proposed regulations, Senate Bill (SB) 1166, Chapter 1115, Statutes of 1989 amended, among other things, Section 1569.49 of the Health and Safety Code which changed the penalty amount for Residential Care Facilities for the elderly. SB 1166, Section 21(d) states:

"(d) Any residential care facility for the elderly that is assessed a civil penalty pursuant to subdivision (c) which repeats the same violation of this chapter within 12 month of the violation subject to subdivision (c) *** shall be assessed an immediate civil penalty of one thousand dollars (\$1,000) and one hundred *** dollars (\$100) for each day the violation continues until the deficiency is corrected.

The department shall adopt regulations implementing this section."

These proposed regulations would implement the provisions of SB 1166, Chapter 1115, Statutes of 1989.

This proposal modifies the following sections of the regulations pertaining to deficiencies in California Code of Regulations (CCR) Title 22, Chapter 1 of Division 6 (Community Care Facilities), Chapter 8 of Division 6 (Residential Care Facilities for the Elderly) and Chapter 1 of Division 12 (Child Day Care), to reflect the amendments to Section 1548, 1569.49 and 1596.99 of the Health and Safety Code.

In addition, these regulations enhance the Department's ability to achieve compliance with the regulations by levying monetary fines in increased amounts to those facilities who are repeatedly out of compliance.

b) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 101196

Specific Purpose

This regulation has been amended to add the reference to Health and Safety Code Section 1596.99 and to provide as handbook information the language contained in the referenced Health and Safety Code.

Factual Basis

It is necessary that the Health and Safety Code be added to this regulatory provision to show that facilities will be evaluated in accordance with specified law. Adding the language in handbook tells licensees what the statute provides.

Section 101203

Subsections (c)(3) and (c)(3)(A)

Specific Purpose

This regulation is amended to add the phrase "or the person in charge of the facility"; to delete the phrase "or the notice cannot be completed during the visit, mailing the notice to the licensee" and to replace it with the phrase "a notation of such refusal shall be written on the notice and a copy left at the facility".

In addition, the phrase "Under such circumstances, a copy of the notice shall also be mailed to the licensee" has been added as subsection (c)(3)(A).

Factual Basis

Current regulations require that upon refusal of the licensee to accept the notice or if the notice cannot be completed during the visit, the notice is to be mailed to the licensee. However, because of a change in licensing procedures, notices of deficiency are now required to be completed during site visits. Therefore, the current regulation must be changed to notify licensees of the new requirements. The licensing agency is required to complete the notice and even though the licensee may refuse to accept a notice of deficiency, a notation of the refusal to accept will be written on the notice and a copy left at the facility. The requirement that the notice be completed and left at the facility ensures that licensees have been given timely notice of uncorrected deficiencies. In addition, because the licensee may not always be at the facility site and will have designated another individual to be in charge, it is necessary that the regulations state that even though it may not be the licensee who has refused acceptance of the notice, a notation of such refusal will be made and a copy left at the facility.

To ensure that a licensee or the person in charge who has refused acceptance of the notice has been duly notified of deficiencies and the corrections that must be made, it is necessary to require that a copy of the notice be mailed to the licensee.

Subsection 101203(d)(4)(D)

Specific Purpose

This section is amended to delete the words "have the authority to" and to state that a correction date shall be specified on the notice when an immediate penalty is assessed.

Factual Basis

It is necessary that existing language be amended for clarity and to require that a correction date be noted on the notice when immediate penalties are assessed to ensure that there is no misunderstanding by the licensee as to when the correction must be made.

Section 101204 (d)

Specific Purpose

This section is amended to identify the conditions under which follow-up visits to determine compliance will not be made.

Factual Basis

This regulation is necessary to implement and interpret the provisions set forth in Health and Safety Code Section 1596.99 added by SB 387, Chapter 1110, Statutes of 1985. This regulation is necessary in order to make clear that follow-up visits are not required if the deficiency is corrected in the presence of the evaluator.

Section 101205

Subsections (a) and (b)

Specific Purpose

These sections are amended to switch the sequence in which they are placed in the regulations; the former subsection (a) is changed to (b) and the former (b) is changed to (a). The content of the regulations remains the same.

Factual Basis

Health and Safety Code Section 1596.99, added by SB 387, Chapter 1110, Statutes of 1985, provides that civil penalties may be assessed for not less than \$25.00 nor more than \$50.00 per day except where the seriousness, frequency or any combination warrants a higher or immediate penalty not to exceed \$150.00 per day. Switching the sequence in which the former subsections were placed shows that civil penalty assessments increase.

Subsections 101205 (c) and (c)(1)

Specific Purpose

Existing language contained in subsection 101205(c) would be deleted and replaced with language specifying that the \$25.00 and \$50.00 penalty assessments do not apply when an immediate penalty of \$150.00 per day is assessed. In addition, this section specifies the conditions under which the \$150.00 immediate penalty is to be assessed.

Factual Basis

The statute sets up a range of penalties from \$25.00 to \$150.00 per day depending on the nature and seriousness of the violation. The most serious violations, which will deserve the maximum penalties, are those that result in the death or serious injury or illness of a child. Evidence that these violations are required as most serious is also found

in Health and Safety Code Section 1596.8865, which requires the Department to close a facility within 48 hours of the substantiation of one of these violations. Therefore, this regulation is necessary to carry out the intent of statute regarding serious violations.

Subsection 101205 (d)

Specific Purpose

This subsection specifies that any facility which has been cited for a serious deficiency and is again cited for the same violation will be assessed an immediate penalty of \$150.00 and \$50.00 per day thereafter until corrected.

Factual Basis

This regulation is necessary to implement the provisions contained in Health and Safety Code Section 1596.99, added by SB 387, Chapter 1110, Statutes of 1985.

Final Modification

Based on testimony, this proposed regulation was amended to provide a 12-month time frame for repeated violations which require immediate penalty assessments. Also, the term "serious" was reinstated to precede the term deficiency and "as defined in Section 101152(a)(34)" was put back in to cross-reference serious deficiency. These needed changes were pointed out by the Office of Administrative Law during their second 30-day review.

Subsection 101205 (e)

Specific Purpose

This regulation specifies that a serious deficiency that is subject to the immediate penalty of \$150.00 and \$50.00 per day thereafter, which is again cited, shall be subject to an immediate penalty assessment of \$150.00 and \$150.00 per day thereafter until corrected.

Factual Basis

This regulation is necessary to implement the provisions contained in Health and Safety Code, Section 1596.99, added by SB 387, Chapter 1110, Statutes of 1985.

Final Modification

Based on testimony, this proposed regulation was amended to provide a 12-month time frame for repeated violations which require immediate penalty assessments.

Subsections 101205(f) and (f) (1)

Specific Purpose

The specific purpose of this subsection is to reletter existing subsection (d) to (f), to delete the phrase "but in no event shall a penalty be assessed for more than 30 calendar days" and to specify that immediate penalty assessments begin on the day the deficiency is cited.

Factual Basis

Existing subsection 101205(d) has been changed to 101205(f) for consistency. It is necessary that the phrase "but in no event shall a penalty be assessed for more than 30 calendar days" be deleted to inform licensees that penalty assessments will continue until compliance has been made. The former language was necessary since assessments of \$50.00 at the end of 30 days would amount to \$1500.00 which is the limit that small claims court will accept. However, due to the increase in amounts for the penalty assessments and the fact that the \$1500.00 limit can occur within a few days, the language is no longer valid.

It is necessary to state that immediate penalty assessments begin on the day of citation in order to implement the provisions of Health and Safety Code Section 1567.99, added by SB 387, Chapter 1110, statutes of 1985.

Subsections (g), (g)(1), (g)(2) and (h)

Specific Purpose

The specific purpose of this proposal is to reletter the former subsection (e) to (g) and (f) to (h) with the text remaining unchanged; to renumber (g)(1) to (g)(2) and move the former (f)(1) to (g)(1); and to add the words "from the date of the original citation".

Factual Basis

It is necessary that these subsections be relettered and renumbered for consistency. The relocation of subsection (f)(1) to (g)(1) is necessary to clarify that falsely reporting that deficiencies have been corrected will result in penalties continuing to accrue from the original date of citation.

Subsection (i)

Specific Purpose

This subsection requires that if an immediate civil penalty is assessed and the deficiency is corrected on the day of citation, a penalty is still assessed for that day.

Factual Basis

This regulation is necessary to implement the provisions set forth in Health and Safety Code Section 1596.99 added by SB 387, Chapter 1110, Statutes of 1985. This regulation is implemented to deter licensees from committing a serious violation which would jeopardize the health and safety of children in care.

Subsections (j) and (k)

Specific Purpose

The former subsections (g) and (h) have been relettered to (j) and (k) with the contents of the regulatory requirements remaining unchanged.

Factual Basis

These subsections were relettered for consistency.

Section 80045 (a)(2)

Specific Purpose

This regulation has been amended to add the reference to Health and Safety Code Section 1548 and to provide as handbook information the language contained in the referenced Health and Safety Code. In addition, subsection (c) has been deleted entirely.

Factual Basis

It is necessary that the Health and Safety Code language be added to this regulatory provision to show that facilities will be evaluated in accordance with the law. Adding the language in handbook tells licensees what the statute provides.

It was necessary to delete subsection (c) because the language therein pertained to child day care centers which are no longer governed by these regulations.

Subsections 80052 (c) (3) and (c) (3) (A)

Specific Purpose

This regulation is amended to add the phrase "or the person in charge of the facility"; to delete the phrase "or the notice cannot be completed during the visit, mailing the notice to the licensee" and to replace it with the phrase "a notation of such refusal shall be written on the notice and a copy left at the facility".

In addition, the phrase "Under such circumstances, a copy of the notice shall also be mailed to the licensee", has been added as subsection (c) (3) (A).

Factual Basis

Current regulations require that upon refusal of the licensee to accept the notice or if the notice cannot be completed during the visit, the notice is to be mailed to the licensee. However, because of a change in licensing procedures, notices of deficiency are now required to be completed during site visits. Therefore, the current regulation must be changed to notify licensees of the new requirement. The licensing agency is required to complete the notice and even though the licensee may refuse to accept a notice of deficiency, a notation of the refusal to accept will be written on the notice and a copy left at the facility. The requirement that the notice be completed and left at the facility ensures that licensees have been given timely notice of uncorrected deficiencies. In addition, because the licensee may not always be at the facility site and will have designated another individual to be in charge, it is necessary that the regulation show that even though it may not be the licensee who has refused acceptance of the notice, a notation of such refusal will be made and a copy left at the facility.

To ensure that a licensee or the person in charge who has refused acceptance of the notice has been duly notified of deficiencies and the corrections that must be made, it is necessary to require that a copy of the notice be mailed to the licensee.

Subsection 80052(d) (4) (D)

Specific Purpose

This section is amended to delete the words "have the authority to" and state that a correction date shall be specified on the notice when an immediate penalty is assessed.

Factual Basis

It is necessary that the former language be amended for clarity and to require that a correction date be noted on the notice when immediate penalties are assessed. This will ensure that there is no misunderstanding by the licensee as to when the correction must be made.

Section 80053 (d)

Specific Purpose

This section is amended to identify the conditions under which follow-up visits to determine compliance will not be made.

Factual Basis

This regulation is necessary in order to implement the provisions set forth in Health and Safety Code Section 1548, which was added by AB 1676, Chapter 1372, Statutes of 1985. This regulation is necessary in order to make clear that follow-up visits are not required if corrected in the presence of the evaluator.

Section 80054

Subsections (a) and (b)

Specific Purpose

These sections are amended to switch the sequence in which they are placed in the regulations; the former subsection (a) is changed to (b) and the former (b) is changed to (a). The text of the regulations remains the same.

Factual Basis

Health and Safety Code Section 1548, added by AB 1676, Chapter 1372, Statutes of 1985, provides that civil penalties may be assessed for not less than \$25.00 nor more than \$50.00 per day except where the seriousness, frequency or any combination warrants a higher or immediate penalty not to exceed \$150.00 per day. Switching the sequence in which the former subsections were placed shows that civil penalty assessments increase.

Subsections 80054 (c) and (c)(1)

Specific Purpose

The former language contained in this section is deleted and replaced with language specifying that the \$25.00 and \$50.00 penalty assessments do not apply when an immediate penalty of \$150.00 per day is assessed. In addition, this section specifies the conditions under which the \$150.00 immediate penalty is to be assessed.

Factual Basis

The statute sets up a range of penalties from \$25.00 to \$150.00 per day pending on the nature and seriousness of the violation. The most serious violations, which will deserve the maximum penalties, are those that result in the death or serious injury or illness of a client. Evidence that these violations are regarded as most serious is also found in Health and Safety Code Section 1550, which requires the Department to close a facility immediately upon proof of such harm to the clients. Therefore, this regulation is necessary to carry out the intent of statute regarding serious violations.

Subsection 80054 (d)

Specific Purpose

This subsection specifies that a facility which has been cited for a serious deficiency and is again cited within a 12-month period will be assessed an immediate penalty of \$150.00 and \$50.00 per day thereafter until corrected.

Factual Basis

This regulation is necessary to implement the provisions contained in Health and Safety Code Section 1548 added by AB 1676, Chapter 1372, Statutes of 1985.

Final Modification

On June 1, 1990, the Office of Administrative Law (OAL) disapproved the filing of the proposed Three-Tier Civil Penalty regulations. One of the reasons cited by OAL for disapproving the proposed regulations was lack of consistency with existing statutes. Proposed Sections 80054 and 87454 based the imposition of higher and immediate penalties on the repetition of a serious deficiency. OAL pointed out in their decision of disapproval that the Health and Safety Code contains no such qualifying language and that these penalties are activated only by the frequency of a violation, not its gravity.

Therefore, Section 80054, subitem (b) and (e) were modified by deleting the word "serious" from the proposed text.

Subsection 80054 (e)

Specific Purpose

This regulation specifies that a serious deficiency subject to the immediate penalty of \$150.00 and \$50.00 per day thereafter, which is again cited within a 12-month period of the initial citation, is subject to an immediate penalty of \$150.00 and \$150.00 per day thereafter until corrected.

Factual Basis

This regulation is necessary to implement the provisions contained in Health and Safety Code Section 1548, added by AB 1676, Chapter 1372, Statutes of 1985.

Final Modification:

On June 1, 1990, the Office of Administrative Law (OAL) disapproved the filing of the proposed Three-Tier Civil Penalty regulations. One of the reasons cited by OAL for disapproving the proposed regulations was lack of consistency with existing statutes. Proposed Sections 80054 and 87454 based the imposition of higher and immediate penalties on the repetition of a serious deficiency. OAL pointed out in their decision of disapproval that the Health and Safety Code contains no such qualifying language and that these penalties are activated only by the frequency of a violation, not its gravity.

Therefore, Section 80054, subitem (b) and (e) were modified by deleting the word "serious" from the proposed text.

Subsections 80054 (f) and (f)(1)

Specific Purpose

The specific purpose of this subsection is to reletter the former subsection (d) to (f), to delete the phrase "but in no event shall a penalty be assessed for more than 30 calendar days" and to specify that immediate penalty assessments begin on the day the deficiency is cited.

Factual Basis

The former subsection (d) has been relettered to (f) for consistency. It is necessary that the phrase "but in no event shall a penalty be assessed for more than 30 calendar days" be deleted to inform licensees that penalty assessments will

continue until compliance has been made. The former language was necessary since assessments of \$50.00 at the end of 30 days would amount to \$1500.00 which is the limit that small claims court will accept. However, due to the increase in amounts for the penalty assessments and the fact that the \$1500.00 limit can occur within a few days, the language is no longer valid.

Subitem (1) was added to require that immediate penalty assessments begin on the day of citation in order to implement the provisions of Health and Safety Code Section 1548, added by AB 1676, Chapter 1372, statutes of 1985.

Subsections 80554 (g), (g)(1), (g)(2) and (h)

Specific Purpose

The specific purpose of this proposal is to reletter the former subsections (e) to (g) and (f) to (h) with the text remaining unchanged. Also existing subitem (f)(1) was relocated to (g)(1) and amended and existing (g)(1) was renumbered to (g)(2).

Factual Basis

It is necessary that these subsections be relettered and renumbered for consistency. The relocation of subsection (g)(1) from the former (f)(1) is necessary to clarify that false reporting of uncorrected deficiencies will result in penalties continuing to accrue from the date of the original citation.

Subsection 80054 (i)

Specific Purpose

This subsection requires that if an immediate civil penalty is assessed and the deficiency is corrected on the day of citation, a penalty is still assessed for that day.

Factual Basis

This regulation is necessary to implement the provisions set forth in Health and Safety Code Section 1548 added by AB 1676, Chapter 1372, Statutes of 1985. This regulation is implemented to deter licensees from continuing serious violations which jeopardize the health and safety of clients in care.

Subsections 80054 (j) and (k)

Specific Purpose

The former subsections (g) and (h) have been relettered to (j) and (k) respectively with the text of the regulatory requirements remaining unchanged.

Factual Basis

These subsections were relettered for consistency.

Subsections 87452 (b) (3) and (b) (3) (A)

Specific Purpose

This regulation specifies that if the licensee or the person in charge refuses to accept the notice a notation of such refusal shall be written on the notice and a copy left at the facility.

In addition, the phrase "Under such circumstances, a copy of the notice shall also be mailed to the licensee" has been added as subsection (b) (3) (A).

Factual Basis

Current regulations require that upon refusal by the licensee to accept the notice or if the notice cannot be completed during the visit, the notice is to be mailed to the licensee. However, because of a change in licensing procedures, notices of deficiency are now required to be completed during site visits. Therefore, the current regulation must be changed to notify licensees of the new requirement. The licensing agency is required to complete the notice and even though they may refuse to accept a notice of deficiency, a notation of the refusal to accept will be written on the notice and a copy of the notice will be left at the facility. The requirement that the notice be completed and left at the facility ensures that licensees have been given timely notice of uncorrected deficiencies. In addition, because the licensee may not always be at the facility site and will have designated another individual to be in charge, it is necessary that the regulation show that even though it may not be the licensee who has refused acceptance of the notice, a notation of such refusal will be made and a copy left at the facility.

To ensure that a licensee or the person in charge who has refused acceptance of the notice has been duly notified of deficiencies and the corrections that must be made, it is necessary to require that a copy of the notice be mailed to the licensee.

Subsection 87452(c)(3)

Specific Purpose

This section is amended to add the requirement that the plan of correction be written on the notice of deficiency.

In addition, the former subsections 87452(c)(3), (4), and (5) have been renumbered to 87452(c)(4), (5), and (6) with the text unchanged.

Factual Basis

It is necessary to require that the plan of correction be written on the notice of deficiency to avoid any misunderstanding as to how the deficiency is to be corrected. It was necessary that the former subsections be renumbered for consistency.

Subsection 87452(c)(4)(B)

Specific Purpose

This section is amended to delete the words "have the authority to" and to state that a correction date shall be specified on the notice when an immediate penalty is assessed.

Factual Basis

It is necessary that the former language be amended for clarity and to require that a correction date be noted on the notice when immediate penalties are assessed to ensure there is no misunderstanding by the licensee, as to when the correction must be made.

Subsection 87452(c)(4)(C)

Specific Purpose

This subsection was separated from the former Section 87452(c)(3)(B) with the text and language unchanged.

Factual Basis

The language in this subsection was previously contained in Subsection 87452(c)(3)(B). It was necessary to break out this language into a separate subsection for clarity.

Section 87453 (d)

Specific Purpose

Subsection 87453(d) identifies the conditions under which follow-up visits to determine compliance will not be made.

Factual Basis

This regulation is necessary in order to implement the provisions set forth in Health and Safety Code Section 1569.49 which was added by AB 1676, Chapter 1372, Statutes of 1985. This regulation is necessary in order to make clear that follow-up visits are not required if corrected in the presence of the evaluator.

Section 87454.

Subsections (a) and (b)

Specific Purpose

These sections are amended to switch the sequence in which they are placed in the regulations. The former subsection (a) is changed to (b) and the former (b) is changed to (a). The text of the regulations remains the same.

Factual Basis

Health and Safety Code Section 1569.49, added by AB 1676, Chapter 1372, Statutes of 1985, provides that civil penalties may be assessed for not less than \$25.00 nor more than \$50.00 per day except where the seriousness, frequency or any combination warrants a higher or immediate penalty not to exceed \$150.00 per day. Switching the sequence in which the former subsections were placed shows that civil penalty assessments increase.

Subsections 87454 (c), and (c)(1)

Specific Purpose

The former language contained in this section is deleted and replaced with language specifying that the \$25.00 and \$50.00 penalty assessments do not apply when an immediate penalty of \$150.00 per day is assessed. In addition, this section specifies the conditions under which the \$150.00 immediate penalty is to be assessed.

Factual Basis

The statute sets up a range of penalties from \$25.00 to \$150.00 per day depending on the nature and seriousness of the violation. The most serious violations, which will deserve the maximum penalties, are those that result in the death or serious injury or illness of a client. Evidence that these violations are regarded as most serious is also found in Health and Safety Code Section 1569.50 which requires the Department to close a facility immediately upon proof of such harm to clients. Therefore, this regulation is necessary to carry out the intent of statute regarding serious violations.

Subsection 87454 (d)

Specific Purpose

This subsection specifies that a facility which has been cited for a serious deficiency and is again cited for the same violation within a 12-month period will be assessed an immediate penalty of \$150.00 and \$50.00 per day thereafter until corrected.

Factual Basis

This regulation is necessary to implement the provisions contained in Health and Safety Code Section 1569.49, added by AB 1676, Chapter 1372, Statutes of 1985.

Final Modification

An inadvertent error in the reference cite to Section 87101(a)(38) was corrected to cite Section 87101(a)(40).

Second Final Modification

On June 1, 1990, the Office of Administrative Law (OAL) disapproved the filing of the proposed Three-Tier Civil Penalty regulations. One of the reasons cited by OAL for disapproving the proposed regulations was lack of consistency with existing statutes. Proposed Sections 80054 and 87454 based the imposition of higher and immediate penalties on the repetition of a serious deficiency. OAL pointed out in their decision of disapproval that the Health and Safety Code contains no such qualifying language and that these penalties are activated only by the frequency of a violation, not its gravity.

Therefore, Section 80054, subitem (b) and (e) were modified by deleting the word "serious" from the proposed text.

Subsection 87454(e)

Specific Purpose

This regulation specifies that a serious deficiency subject to the immediate penalty of \$150.00 and \$50.00 per day thereafter, which is again cited within a 12-month period of the initial citation, is subject to an immediate penalty of \$150.00 and \$150.00 per day thereafter until corrected.

Factual Basis

This regulation is necessary to implement the provisions contained in Health and Safety Code Section 1569.49, added by AB 1676, Chapter 1372, Statutes of 1985.

Final Modification:

On June 1, 1990, the Office of Administrative Law (OAL) disapproved the filing of the proposed Three-Tier Civil Penalty regulations. One of the reasons cited by OAL for disapproving the proposed regulations was lack of consistency with existing statutes. Proposed Sections 80054 and 87454 based the imposition of higher and immediate penalties on the repetition of a serious deficiency. OAL pointed out in their decision of disapproval that the Health and Safety Code contains no such qualifying language and that these penalties are activated only by the frequency of a violation, not its gravity. Also, effective January 1, 1990 Health and Safety Code Section 1569.49(d) was amended to require a higher immediate penalty of one thousand dollars (\$1,000) and one hundred dollars (\$100) per day thereafter until the deficiency is corrected. The "one hundred dollars per day" language was inadvertently omitted during the second 15-day comment period. OAL pointed out this error during their second 30-day review.

Therefore, Sections 80054 and 87454, subitem (b) and (e) were modified by deleting the word "serious" from the proposed text and, Section 87454(e) was further modified by changing the repeated violation assessment for immediate penalties from on hundred-fifty dollars (\$150) to one thousand dollars (\$1,000).

Subsections 87454 (f) and (f)(1)

Specific Purpose

The specific purpose of this subsection is to reletter the former subsection (d) to (f), to move to (g), (g)(1) and (g)(2) the phrase "In the event that a licensee or his/her representative reports to the licensing agency that a

deficiency has been corrected, the penalty shall cease as of the day the licensing agency receives notification that the correction has been made. A site visit shall be made immediately or within five working days. If it can be verified that the correction was made prior to the date of notification, the penalty shall cease as of that earlier date" and to specify instead that immediate penalty assessments begin on the day the deficiency is cited.

Factual Basis

The former subsection (d) has been relettered to (f) for consistency. It is necessary that the phrase be deleted to clarify that penalty assessments will continue until compliance has been made.

It is necessary to require that immediate penalty assessments begin on the day of citation to ensure that licensees know when they begin to incur the higher amounts in order to implement the provisions of Health and Safety Code Section 1569.49, added by 1676, Chapter 1372, Statutes of 1985.

Subsections 87454 (g), (g)(1) and (g)(2)

Specific Purpose

The purpose of this subsection is to specify that if a licensee or his/her representative reports that a deficiency has been corrected, the penalty will cease as of the day the licensing agency is notified of the correction. Subsection (g)(1) specifies that should the deficiency not be corrected, the penalties assessed will continue to accrue. Further, Subsection (g)(2) specifies that if it can be verified that the correction was made prior to the notification, the penalty ceases as of the earlier date.

Factual Basis

The language in subsections (g), (g)(1) and (g)(2) was previously contained in Subsection 87454 (d). It was necessary to break out this language into separate subsections for clarity.

Subsections 87454 (h)

Specific Purpose

The purpose of this section is to specify that a site visit shall be made, if necessary, immediately or within five working days to confirm correction of a deficiency.

Factual Basis

This proposed language is necessary to, require that a site visit shall be made, if necessary, to verify correction of deficiencies. If the correction was falsely reported, the penalties assessed will remain in effect until the deficiency is corrected.

Subsection 87454(i)

Specific Purpose

Subsection (i) specifies that should an immediate penalty be assessed and the deficiency is corrected on the same day, the penalty will still be assessed for that one day.

Factual Basis:

Subsection (i) is necessary to show that when an immediate civil penalty is assessed, even when the deficiency is corrected on the same day, the assessed penalty shall be collected for that day. This regulation is implemented to deter licensees from committing serious deficiencies which jeopardize the health and safety of clients in care.

Subsection 87454 (j)

Specific Purpose

The specific purpose of this section is to reletter the former (e) to (j) with the text of the regulation remaining the same.

Factual Basis

It was necessary to reletter this subsection for consistency.

Subsection 87454(k)

Specific Purpose

The purpose of this proposed section is to specify that the licensing agency has the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay civil penalties.

Factual Basis

This regulatory provision is necessary to be consistent with general licensing regulations, Section 80054(h) which currently state what action will be taken against facilities that fail to pay civil penalties.

c) Identification of Documents Upon Which Department Is Relying

Assembly Bill (AB) 1676, Chapter 1372, Statutes of 1985.
Senate Bill (SB) 387, Chapter 1110, Statutes of 1985.

d) Testimony and Response

The Department's proposed Three-Tier Civil Penalty for Certain Community Care Facilities regulations were considered at a public hearing held on June 21, 1989. Oral testimony was presented by the following four commentators/organizations: 1) Linda Lovett, Executive Director Professional Association for Childhood Education (PACE); 2) Charles W. Skoien, Jr., Community Residential Care Association of California; 3) Devon Ludwig, Butte Valley Ranch Home; and 4) Freda Ulrich, President, PACE. Written comments were received during the 45-day public comment period from Kathryn A. Ruff, California Association of Health Facilities (CAHF), Robert F. O'Connor, Canoga Park Pre-School and Kindergarten, and Los Angeles County Department of Public Social Services who indicated their review of the proposed regulations but had no comments. Linda Lovett of PACE provided a written version of her oral testimony.

The Department received several verbal complaints that many of the groups or organization who would be subject to the provisions of the proposed regulations had not received notification of the proposed changes. Consequently, the Department extended the public comment period for the proposed changes to August 28, 1989.

The Department's Community Care Licensing Division provided a mailing list of organizations and licensees who should receive notification of the extended public comment period along with a copy of the proposed regulations. The Department received one additional written comment during the extended public comment period. This comment was from Vernon A. Plaskett, President Child Development Incorporated. A summary of each comment and the Department's responses to the comments follow below.

GENERAL COMMENTS

1. Comment:

Child Development Incorporated opposed the regulations for two reasons: "1) If a child care facility has caused the sickness, injury, or death of a child as a result of observed deficiencies, then immediate technical assistance is required rather than a fine; 2) licensing evaluators have not demonstrated the ability to determine between serious and non-serious deficiencies ... we would appreciate a decision not to enter into a three-tier system until there has been a thorough evaluation of the existing two-tier system".

Response:

The statute does not provide for technical assistance by the licensing agency in lieu of an immediate civil penalty assessment when that action is warranted by the seriousness of the deficiency. It is the licensee's responsibility to ensure the health and safety of the clients in care and to seek technical assistance as necessary prior to the sickness, injury or death of a client.

Existing regulations provide definitions of deficiencies and serious deficiencies, and examples of what are usually considered serious deficiencies are provided. If a licensee does not agree with the licensing agency's determination of the seriousness of a deficiency, an appeal may be filed pursuant to California Code of Regulations Section 101206.

The statute requires the Department to implement the three-tier civil penalty process.

2. Comment:

Canoga Park Pre-School and Kindergarten and PACE expressed concern and/or confusion regarding the use of the terms "reported deficiencies" and "repeated deficiencies" as those terms were used in the informative digest, initial statement of reasons, and the regulation text. Both commenters felt that reported deficiencies are not necessarily substantiated deficiencies and that licensees may be erroneously penalized with a \$150 per day penalty for unsubstantiated reported deficiency or unrelated deficiencies which would not fit into the category of repeated deficiencies. Both commentors suggested that the term "reported" be changed to "repeated" or "substantiated".

Response:

A typographical error in the Statement of Reasons resulted in use of the word "reported" instead of the intended word "repeated." This error does not appear in the statute or the regulations.

Section 101205(c)(1)

3. Comment:

Canoga Park Pre-School and Kindergarten and PACE expressed concern regarding the application of the immediate penalty assessment when "sickness, injury or death of a child has occurred as a result of the deficiency". Both groups felt that the use of the term "sickness" is vague and non-specific

and may be defined in a subjective way by the licensing evaluator. PACE felt that "... much clarification is needed ..." and Canoga park Pre-School and Kindergarten felt that "... there has to be some work done as to the definition of what an illness is ..."

Response:

For an immediate civil penalty assessment the licensing agency must establish that a client's sickness, injury or death has occurred as a result of a deficiency. In a child care center examples of this may be contaminated food or water causing the outbreak of a sickness or children becoming sick because the center failed to isolate a child who arrived sick.

When there are questions regarding the presence, nature and cause of a sickness, the licensing agency may seek consultation from medical professionals. A precise definition of sickness in the regulations would put the licensing agency in the position of making medical decisions.

If the licensee disagrees with the licensing agency's determination that a sickness has occurred as the result of a deficiency, the licensee may file an appeal pursuant to California Code of Regulations Section 101206.

Section 101205(d):

4. Comment:

Canoga Park Pre-School and Kindergarten and PACE expressed concern that the assessment of an immediate penalty for serious deficiencies that are repeated has no specific time-frame outside of which the definition of repeated would not apply. Both groups recommended that a maximum twelve-month time limit between deficiencies would be appropriate for the purpose of defining "repeated" deficiencies.

Response:

The Department concurred with the recommendation to provide a 12-month time frame for repeated violations. The children's day care center regulations on repeated serious deficiencies have been changed to conform to those covering the other facility categories. A serious deficiency will be considered repeated and subject to the higher civil penalty assessment amounts if it recurs within a 12-month period.

5. Comment:

Canoga Park Pre-School and Kindergarten and PACE complained that they did not receive formal notification of the public hearing on the proposed changes to the Department's regulations.

Response:

Please note the actions taken by the Regulations Development Bureau described in paragraph 2 of Section (d) of the Final Statement of Reasons "Testimony and Response".

Section 87452(b)(3)(A)

6. Comment:

CAHF recommended that the regulations be amended to require that notices of deficiencies shall also be mailed to the licensee within 24 hours.

Response:

California Code of Regulations Section 87564 requires all facilities to have an administrator with the responsibility to "report to the licensee on the operation of the facility," which includes notifying the licensee of the issuance of a deficiency notice. Further, Licensing Program Analysts frequently stay in the field several consecutive days without returning to the district office, and mailing deficiency notices to the licensee within 24 hours of the visit would be an unnecessary and unreasonable burden on the licensing agency.

Section 87452(c)(4)(B)

7. Comment:

CAHF recommended that the wording "...have the authority to ..." be retained or not be deleted from the requirement of Section 87452(c)(4)(B). CAHF felt that deleting this language "... would require that all deficiencies be corrected within 24 hours.

It is reasonable to allow evaluators to require correction within 24 hours for serious deficiencies which threaten the health and/or safety of residents; however, it is not reasonable to require such corrections for less serious deficiencies, or deficiencies which cannot be corrected within 24 hours for reasons beyond the providers control. This provision is unnecessarily rigid and unrealistic. It is

also inconsistent with the rest of subsection (B) and (C), which state that evaluators have flexibility in establishing a date for corrective action, not to exceed 30 days, unless the evaluator determines that the deficiency cannot be completely corrected within 30 days.

In order to ensure that the regulations are fair and consistent, our recommended amendment should be adopted."

Response:

Only those serious deficiencies determined by the licensing agency to warrant an immediate civil penalty assessment pursuant to Section 87454(c), (d), or (e) must be corrected within 24 hours. The licensing agency continues to have the flexibility provided for in Section 87452(c)(4)(C) when the immediate civil penalty provisions do not apply.

Health and Safety Code Section 1569.49 requires the licensing agency to assess an immediate civil penalty for serious deficiencies repeated within a year, whatever the reasons for the repetition. No provision is made in the Statute for repeated serious deficiencies that cannot be corrected within 24 hours.

California Code of Regulations Section 87455 gives the licensee the right to appeal the licensing agency's determination of a deficiency's seriousness. Exercising this right will be particularly important when repeated serious deficiencies will result in the assessment of immediate civil penalties and the establishment of 24-hour plans of correction.

Section 87454(c)

8. Comment:

CAHF recommended that the regulations be amended to:

1. Allow the Department greater flexibility in assessing penalty amounts.
2. Include a more detailed explanation of what circumstances would lead to the assessment of an immediate penalty; and
3. Establish standards for the length of time of the penalty for any particular incident or deficiency.

CAHF submitted the following detailed discussion of the issues they felt the regulations must be revised address.

"This section is extremely problematic, as it is unnecessarily rigid in terms of the penalty amount, but provides inadequate standards for deficiency identification and length of time for which the penalty may be assessed. This will lead to subjective and inconsistent actions being taken by evaluators and will not give providers clear standards for service, expectations and outcomes. It is important that the Department carefully re-examine this provision and insure that the following issues are addressed:

1. The Department should be allowed some flexibility in assessing penalty amounts. The requirement that all immediate penalties be levied at \$150 per day ignores the fact that some deficiencies are more serious than others. This fact must be recognized by a variation in the levels of penalties assessed for deficiencies which vary in extent and severity.
2. The proposed regulations for assessing immediate penalties for "sickness, injury or death of a client has occurred as a result of the deficiency," is extremely vague and lacks clarity. The Department must establish the standards by which a specific outcome can be attributed to a specific deficiency. It is also important to clearly define the terms, "sickness" and "injury", as these outcomes could vary from the common cold or a splinter to serious and/or life threatening events. Section 1569.50 of the Health and Safety Code, which the Department alludes to as setting the standard for serious violations does not provide definitive parameters and therefore, the regulation is vague and lacks clarity.
3. The proposed regulation which requires an immediate penalty of \$150 per day does not provide necessary standards to determine the length of time for the penalty to be assessed. This could lead to subjective and unreasonable determinations by evaluators. For example, if a deficiency led to the sickness of a resident, would the penalty accrue for the event(s) leading to the sickness (and how would that length of time be determined?), or would it accrue for the entire length of the resident's sickness? A reasonable and clear standard must be developed to ensure consistency in the application of this regulation. Failure to appropriately revise this section will lead to problematic and inappropriate evaluations throughout the states."

Response:

The Statute does not give the Department flexibility in establishing limits on the length of time penalties will be assessed or on the amount of daily assessments. However, existing regulations provide for appeals of citations and penalty assessments when the licensee disagrees with the licensing program analyst's determinations.

The circumstances that would lead to the assessment of an immediate civil penalty will be clear to each licensee. A licensee cited the first time for a serious deficiency is on notice that the second time the licensing agency finds the same deficiency an immediate civil penalty will be assessed. With the adoption of these regulations licensees will be on notice that when a client's sickness, injury or death is a result of a deficiency, an immediate civil penalty will be assessed. As stated, licensees may appeal the licensing agency's decision to assess an immediate civil penalty.

As with all civil penalties, if an immediate civil penalty has been assessed when a deficiency has resulted in the sickness, injury or death of a client, the assessment will continue until the deficiency has been corrected. When the licensee notifies the licensing agency that the deficiency has been corrected, the penalty assessment ceases as of the date of that notification as long as a timely follow-up visit by the licensing agency confirms that the deficiency has in fact been corrected. If the licensing agency fails to make that timely follow-up visit, the civil penalty assessment is subject to dismissal. If the follow-up visit is timely, but the deficiency has not been corrected, the assessment continues without interruption until the deficiency has been corrected.

Section 87454(d)

9. Comment:

CAHF recommended that Section 87454(d) be amended as follows:

"(d) When a facility is cited for a serious deficiency as defined in Section ~~87101~~ 8700(o) (a) (38) and repeats the same violation within a 12-month period, an immediate, once only penalty of up to \$150, and a continuing penalty of up to \$50 per day thereafter shall be assessed until the deficiency is corrected."

Response:

The statute does not give the Department the requested flexibility in establishing the amount of the immediate and continuing civil penalties. Therefore no change was made to the regulation based on the comment from CAHF. However, the Department did correct an error in the cited reference to Section 87101(a)(38). The correct reference should have been Section 87101(a)(40). This technical correction was made in the final modification.

Section 87454(e)

10. Comment:

CAHF recommended that Section 87454(e) be amended as follows:

(e) A second deficiency ... shall be cited and assessed to immediate once only penalty of up to \$150 per day thereafter until the deficiency is corrected.

Response:

The statute does not give the Department the requested flexibility in establishing daily civil penalty amounts.

Section 87454(g)(1)

Comment:

CAHF recommended that Section 87454(g)(1) be amended as follows:

"1. If the Department of Social Services, Community Care Licensing Division determines that the deficiency has not been corrected, civil penalties shall continue to accrue from the date of the determination until the deficiency has been corrected."

This section must be amended in order to ensure that the Department makes determinations regarding the correction of deficiencies in a timely and judicious manner, and to prevent facilities from being unfairly penalized if the Department does not do so."

Response:

California Code of Regulations Sections 87453 and 87454 presently give the licensing agency the authority to determine whether or not cited deficiencies have been corrected. Further, they require the licensing agency to

make timely determinations of the status of cited deficiencies. If the licensing agency determines that cited deficiencies have not been corrected in a timely fashion, it becomes the licensee's responsibility to notify the licensing agency when compliance has been achieved. If so notified, the Department must make a timely visit to confirm compliance or the civil penalties are subject to dismissal. Therefore, the concerns expressed have been addressed, and the suggested change is not necessary.

RECOMMENDATION/COMMENT

12. CAHF submitted the following recommendation:

"The Department should add a section to the proposed regulations which will provide for a fair and timely appeals process for facilities if they believe that a penalty is unfair and/or undeserved. It is the right of facilities to be afforded an informal mechanism for the resolution of disputes, particularly those regarding allegations of deficiencies and associated monetary sanctions prior to having to expend the expense and time which is necessitated by a formal legal action.

We would appreciate the opportunity to work with the Department to develop an appropriate appeals process." Charles W. Skoien, Jr., Community Residential Care Association of California and Devon Ludwig, Butte Valley Ranch Home also recommended that the regulations provide an appeals process.

Response:

California Code of Regulations Section 87455 provides for appeal of a citation, the assessment of civil penalties, and the determination of the degree of seriousness of a violation.

Second 15-Day Renotice Comments/Responses

Sections 101203(3)(A); 80052(3)(A) and 87452(3)(A)

Comment:

Community Residential Care Association of California recommended that the current language of these sections be amended to read: "Under such circumstances, a copy of the notice shall also be mailed certified to the licensee at their mailing address noted."

Response:

Thank you for your comments and suggestions regarding amendments to Sections 101203(c)(3)(A), 80052(c)(3)(A), and 87452(b)(3)(A).

Unfortunately, this second 15-day re-notice applies only to Sections 80054 and 87454, sub-item (b) and (e) and the sections referred to in your letter are beyond the scope of this public comment period.

Please refer to the Specific Purpose and Factual Basis sections in the Initial Statement of Reasons for information regarding the regulation sections referred to in your letter. As explained, it is the Department's position that the requirement that the notice be completed and left at the facility ensures that the licensee has been given timely notice of uncorrected deficiencies. This applies even in instances when the licensee or an individual designated by the licensee to be in charge of the facility refuses acceptance of the notice. To ensure that a licensee or the person in charge who has refused acceptance of the notice has been duly notified of the deficiencies and the corrections that must be made, the Department is required to mail a copy of the notice to the licensee.

The use of both personal and mail delivery provides for adequate notice. It is presumed that notices sent by first class mail to the licensee will be delivered. If the licensee has a mailing address different from the facility address, current procedure requires that it be noted in the facility file and all correspondence be mailed to that address.

e) Local Mandate Statement

These regulations do not impose a mandate on school districts or local agencies. Thus, there are no state mandated local costs which require reimbursement under the laws of California.

f) Statement of Potential Cost Impact on Private Persons or Businesses and of Alternatives Considered

The Department has determined that these regulations will have no cost impact on private persons or businesses.

SDSS finds that no alternative considered by the department would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected persons.

g) Small Business Impact Statement

The Department has determined that small businesses will be impacted by these regulations to the degree that civil penalties are assessed against them. The Department of Social Services has not considered proposed alternatives that would lessen any adverse economic impact on small business and invites you to submit such proposals. Submissions may include the following considerations:

- (A) The establishment of differing compliance or reporting requirements or timetables which take into account the resources available to small businesses.
- (B) Consolidation or simplification of compliance and reporting requirements for small businesses.
- (C) The use of performance standards rather than design standards.
- (D) Exemption or partial exemption from the regulatory requirements for small businesses.

The following types of small businesses would be affected: An undetermined number of community care facilities, Residential Care Facilities for the Elderly, and Child Day Care Centers. The Department is unable to estimate the number of facilities impacted because there is no way to determine 1) the number of facilities that may violate the regulation and thereby incur the civil penalty assessments and 2) the number of potential days a facility could be fined the civil penalty.

h) 15-Day Renotice Statement

Based on testimony, the Department amended proposed Section 101205 subitems (d) and (e) to provide a 12-month time frame for repeated violations which require the higher immediate penalty assessment. A 15-day renotice period was provided for public comment on this change. The 15-day renotice period was from April 10, 1990 through April 25, 1990.

i) Second 15-Day Renotice Statements

On June 1, 1990, the Office of Administrative Law (OAL) disapproved the filing of the proposed Three-Tier Civil Penalty regulations. One of the reasons cited by OAL for

disapproving the proposed regulations was lack of consistency with existing statutes. Proposed Sections 80054 and 87454 based the imposition of higher and immediate penalties on the repetition of a serious deficiency. OAL pointed out in their decision of disapproval that the Health and Safety Code contains no such qualifying language and that these penalties are activated only by the frequency of a violation, not its gravity. Also, effective January 1, 1990 Health and Safety Code Section 1569.49(d) was amended to require a higher immediate penalty of one thousand dollars (\$1,000).

Therefore, Sections 80054 and 87454, subitem (b) and (e) were modified by deleting the word "serious" from the proposed text and, Section 87454(e) was further modified by changing the repeated violation assessment for immediate penalties from on hundred-fifty dollars (\$150) to one thousand dollars (\$1,000).

A second 15-day renotece period was provided for public comment on these changes. The 15-day comment period was from August 15, 1990 to August 29, 1990. The Department received comments from Charles W. Skoien, Jr. and Marty Hampton, Consultants for Community Residential Care Association of California.

j) Third 15-Day Renotece Statement

On October 26, 1990, the Office of Administrative Law (OAL), again, disapproved the filing of the Three-Tier Civil Penalty regulations. After receipt of OAL's June 1, 1990 Decision of Disapproval the Department changed the amount of the immediate civil penalty required by Section 87454(e) to one thousand dollars (\$1000) but failed to change the subsequent daily amount from one hundred-fifty dollars (\$150) to one hundred dollars (\$100). Also, the term "serious" was inadvertently deleted from Section 101205(d). These errors have been corrected and explained in the final modification section of the Final Statement of Reasons. A 15-day comment period was provided as required by the government code. The public comment period was from November 14, 1990 to November 29, 1990. The Department received no comments during the third 15-day comment period.

Amend Section 101196(a) to read:

101196 EVALUATION VISITS

101196

- (a) Child day care facilities shall be evaluated as specified in Health and Safety Code Sections 1596.98, 1596.99, 1597.08 and 1597.09.

HANDBOOK

(1) (Continued)

(2) Health and Safety Code Section 1596.99 provides in part:

In addition to suspension or revocation of a license issued under this chapter, the Department may levy a civil penalty. The civil penalty may be in addition to the penalties of suspension or revocation.

The amount of the civil penalty may not be less than twenty-five dollars (\$25) nor more than fifty dollars (\$50) per day for each violation of this chapter except where (1) the nature of the violation, (2) the seriousness of the violation, (3) the frequency of the violation, or (4) any combination of these factors warrants a higher penalty or an immediate civil penalty assessment as specified in subdivision (c), or both. In no event shall a civil penalty assessment exceed one hundred fifty dollars (\$150) per day.

(23) (Continued)

(24) (Continued)

(A) (Continued)

(B) (Continued)

(b) (Continued)

(c) (Continued)

Authority Cited: Sections 1596.81 and 1596.99 of the Health and Safety Code.

Reference: Sections 1596.81(b), 1596.852 and 1596.99 1597.08, 1597.09, of the Health and Safety Code.

Amend Section 101203 to read:

101203 DEFICIENCIES IN COMPLIANCE

101203

(a) (Continued)

(b) (Continued)

(c) (Continued)

(1) (Continued)

(2) (Continued)

(A) (Continued)

(3) If the licensee or the person in charge of the facility refuses to accept the notice of the notice cannot be completed during the visit, mailing the notice to the licensee, a notation of the refusal shall be written on the notice and a copy left at the facility.

(A) Under such circumstances, a copy of the notice shall also be mailed to the licensee.

(d) (Continued)

(1) (Continued)

(2) (Continued)

(3) (Continued)

(4) (Continued)

(A) (Continued)

1. (Continued)

2. (Continued)

3. (Continued)

4. (Continued)

(B) (Continued)

(C) (Continued)

(D) The evaluation shall have the authority to require correction of the deficiency within 24 hours or less if there is an immediate threat to the health or safety of the children/ and shall specify on the notice of deficiency the date by which the correction must be made whenever penalties are assessed pursuant to Sections 101205(c), (d) and (e).

(5) (Continued)

(6) (Continued)

Authority Cited: Sections 1596.81 and 1596.99 of the Health and Safety Code.

Reference: Sections 1596.81(b), 1596.98 and 1596.99 of the Health and Safety Code.

Amend Section 101204 to read:

101204 FOLLOW-UP VISITS TO DETERMINE COMPLIANCE

101204

(a) (Continued)

(1) (Continued)

(2) (Continued)

(b) (Continued)

(c) (Continued)

(1) (Continued)

(2) (Continued)

(d) When an immediate penalty has been assessed pursuant to Sections 101205(c), (d), (e) and (f) and correction is made when the evaluator is present, a follow-up visit is not required.

Authority Cited: Sections 1596.81 and 1596.99 of the Health and Safety Code.

Reference: Sections 1596.852, 1596.853, 1596.98 and 1596.99 of the Health and Safety Code.

Reletter existing subsection 101205(b) to 101205(a) and 101205(a) to 101205(b); relocate existing subsection 101205(f)(1) to subsection 101205(q)(1) and renumber existing (q)(1) to (q)(2) and amend Section 101205 to read:

101205 PENALTIES

101205

- (a) A penalty of \$25 per day shall be assessed for deficiencies, other than serious deficiencies, that are not corrected by the date specified in the notice of the deficiency.
- (b) A penalty of \$50 per day shall be assessed for serious deficiencies that are not corrected by the date specified in the notice of deficiency.
- (c) ~~The maximum daily penalty for all deficiencies shall not exceed \$50.~~ Notwithstanding (a) and (b) above, an immediate penalty of \$150 per day shall be assessed for the following:
 - (1) Sickness, injury or death of a child(ren) has occurred as a result of the deficiency.
- (d) When a facility is cited for a serious deficiency as defined in Section 101152(a)(34) and repeats the same violation within a 12-month period, an immediate penalty assessment of \$150 and \$50 per day thereafter shall be assessed until the deficiency is corrected.
- (e) A serious deficiency subject to the immediate penalty assessment specified in Section 101205(d) above which is repeated within a 12-month period, shall be cited and assessed and immediate penalty assessment of \$150 and \$150 per day thereafter until the deficiency is corrected.
- (f) If any deficiency is not corrected by the date specified in the notice of deficiency, a penalty shall be assessed for the notice of deficiency, a penalty shall be assessed for each day following that date until compliance has been demonstrated. ~~but in no event should a penalty be assessed for more than 30 calendar days.~~
 - (1) Immediate penalty assessment as specified in (c), (d) and (e) above, shall begin on the day the deficiency is cited.
- (g) If a licensee or his/her representative reports to the licensing agency that a deficiency has been corrected, the penalty shall cease as of the day the licensing agency receives notification that the correction was made.

- (1) If the deficiency has not been corrected, civil penalties shall continued to accrue from the date of the original citation.

~~11~~(2) (Continued)

- (~~h~~) If necessary, a site visit shall be made immediately or within five working days to confirm that the deficiency has been corrected.

~~11~~ ~~(Continued)~~

- (~~i~~) If an immediate civil penalty is assessed, and the deficiency is corrected on the same day, the penalty shall still be assessed for that day.

- (~~j~~) All penalties shall be due and payable upon receipt of the notice for payment from the licensing agency, and shall be paid only by check or money order made payable to the agency indicated in the notice.

- (~~k~~) The licensing agency shall have the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (~~j~~) above.

Authority Cited: Sections 1596.81 and 1596.99 of the Health and Safety Code.

Reference: Sections 1596.81(b), 1596.98 and 1596.99 of the Health and Safety Code.

Amend Section 80045(a) and (c) to read:

80045 EVALUATION VISITS

80045

- (a) Community care facilities shall be evaluated as specified in Health and Safety Code Sections 1534 and 1548.

HANDBOOK

(1) (Continued)

(2) Health and Safety Code Section 1548 provides in part:

In addition to suspension or revocation of a license issued under this chapter, the department may levy a civil penalty in addition to the penalties of suspension or revocation.

The amount of the civil penalty shall not be less than twenty-five dollars (\$25) or more than fifty dollars (\$50) per day for each violation of this chapter except where the nature or seriousness of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment, or both, as determined by the department. In no event, shall a civil penalty assessment exceed one hundred fifty dollars (\$150) per day.

(b) (Continued)

1c) Provisions for frequency of evaluation visits to child care centers are contained in section 81043.

Authority Cited: Sections 1530 and 1548 of the Health and Safety Code.

Reference: Sections 1528, 1533, 1534, 1538 and 1548 of the Health and Safety Code.

Amend Section 80052 to read:

80052 DEFICIENCIES IN COMPLIANCE

80052

(a) (Continued)

(b) (Continued)

(c) (Continued)

(1) (Continued)

(2) (Continued)

(A) (Continued)

(3) If the licensee or the person in charge of the facility refuses to accept the notice of the notice cannot be completed during the visit, mailing the notice to the licensee, a notation of the refusal shall be written on the notice and a copy left at the facility.

(A) Under such circumstances, a copy of the notice shall also be mailed to the licensee.

(d) (Continued)

(1) (Continued)

(2) (Continued)

(3) (Continued)

(4) (Continued)

(A) (Continued)

1. (Continued)

2. (Continued)

3. (Continued)

4. (Continued)

(B) (Continued)

(C) (Continued)

(D) The evaluator shall have the authority to require correction of the deficiency within 24 hours of and less if there is an immediate threat to the health or safety of the clients/ shall specify on the notice the date by which the correction must be made whenever penalties are assessed pursuant to Sections 80054(c), (d) and (e).

(5) (Continued)

(6) (Continued)

Authority Cited: Sections 1530 and 1548 of the Health and Safety Code.

Reference: Sections 1534 and 1548 of the Health and Safety Code.

Amend Section 80053 to read:

80053 FOLLOW-UP VISITS TO DETERMINE COMPLIANCE

80053

(a) (Continued)

(1) (Continued)

(2) (Continued)

(b) (Continued)

(c) (Continued)

(1) (Continued)

(2) (Continued)

(d) When an immediate penalty has been assessed pursuant to Sections 80054(c), (d), (e) and (f) and correction is made when the evaluator is present, a follow-up visit is not required.

Authority Cited: Sections 1530 and 1548 of the Health and Safety Code.

Reference: Sections 1533, 1534 and 1548 of the Health and Safety Code.

Amend Section 80054 to read:

80054

PENALTIES

80054

- (a) A penalty of \$25 per day shall be assessed for deficiencies, other than serious deficiencies, that are not corrected by the date specified in the notice of deficiency.
- (b) A penalty of \$50 per day shall be assessed for serious deficiencies that are not corrected by the date specified in the notice of deficiency.
- (c) ~~The maximum daily penalty for all deficiencies shall not exceed \$30.~~ Notwithstanding (a) and (b) above, an immediate penalty of \$150 per day shall be assessed for any of the following:
- (1) Sickness, injury or death of a client has occurred as a result of the deficiency.
- (d) When a facility is cited for a deficiency and repeats the same violation within a 12-month period, an immediate penalty assessment of \$150 and \$50 per day thereafter shall be assessed until the deficiency is corrected.
- (e) A deficiency subject to the immediate penalty assessment in Section 80054(d) above which is repeated within a 12-month period of the initial deficiency citation shall be cited and assessed an immediate penalty of \$150 and \$150 per day thereafter until the deficiency is corrected.
- (f) If any deficiency is not corrected by the date specified in the notice of deficiency, a penalty shall be assessed for each day following that date until compliance has been demonstrated. ~~but in no event shall a penalty be assessed for more than 30 calendar days.~~
- (1) Immediate penalty assessment as specified in (c), (d) and (e) above, shall begin on the day the deficiency is cited.
- (g) If a licensee or his/her representative reports to the licensing agency that a deficiency has been corrected, the penalty shall cease as of the day the licensing agency receives notification that the correction was made.
- (1) If the deficiency has not been corrected, civil penalties shall continue to accrue from the date of the original citation.

11(2) (Continued)

(fh) If necessary, a site visit shall be made immediately or within five working days to confirm that the deficiency has been corrected.

111 ~~Continued~~

(i) If an immediate civil penalty is assessed, and the deficiency is corrected on the same day, the penalty shall still be assessed for that day.

(gj) All penalties shall be due and payable upon receipt of the notice for payment from the licensing agency, and shall be paid only by check or money order made payable to the agency indicated in the notice.

(hk) The licensing agency shall have the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (gj) above.

Authority Cited: Sections 1530 and 1548 of the Health and Safety Code.

Reference: Sections 1534 and 1548 of the Health and Safety Code.

Amend Section 87452 to read:

87452 DEFICIENCIES IN COMPLIANCE

87452

(a) (Continued)

(b) (Continued)

(1) (Continued)

(2) (Continued)

(3) If the licensee or the person in charge of the facility refuses to accept the notice a notation of the refusal shall be written on the notice and a copy left at the facility.

(A) Under such circumstances, a copy of the notice shall also be mailed to the licensee.

(c) (Continued)

(1) (Continued)

(2) (Continued)

(3) The plan developed, as specified in (b) above, for correcting each deficiency.

(4) (Continued)

(A) (Continued)

1. (Continued)

2. (Continued)

3. (Continued)

4. (Continued)

(B) The evaluator shall have the authority to require that the deficiency correction of the deficiency be corrected within 24 hours and shall specify on the notice the date by which the correction must be made whenever penalties are assessed pursuant to Sections 87454(c), (d) and (e). If there is an immediate threat to the health safety of the residents, however,

(C) The date for correcting a deficiency shall not be more than 30 calendar days following service of the notice of deficiency, unless the evaluator determines that the deficiency cannot be completely corrected in 30 calendar days. If the date for correcting the deficiency is more than 30 days following service of the notice of deficiency the notice shall specify action which must be taken within 30 calendar days to begin correction.

4(5) (Continued)

5(6) (Continued)

Authority Cited: Sections 1569.30 and 1569.49 of the Health and Safety Code.

Reference: Sections 1569.30, 1569.31, 1569.312, 1569.315, 1569.335, 1569.485 and 1569.49 of the Health and Safety Code.

Amend Section 87453 to read:

87453 FOLLOW-UP VISITS TO DETERMINE COMPLIANCE 87453

- (a) (Continued)
- (b) (Continued)
- (c) (Continued)
 - (1) (Continued)
 - (2) (Continued)
- (d) When an immediate penalty has been assessed pursuant to Sections 87454(c), (d), (e) and (f) and correction is made when the evaluator is present, a follow-up visit is not required.

Authority Cited: Sections 1569.30 and 1569.49 of the Health and Safety Code.

Reference: Sections 1569.33, 1569.335, 1569.35, 1569.485, and 1569.49 of the Health and Safety Code.

Amend Section 87454 to read:

87454

PENALTIES

87454

- (a) A penalty of \$25 per day shall be assessed for all deficiencies, other than serious deficiencies, that are not corrected by the date specified in the notice of deficiency.
- (b) A penalty of \$50 per day shall be assessed for all serious deficiencies that are not corrected by the date specified in the notice of deficiency.
- (c) The maximum daily penalty shall not exceed \$30/
Notwithstanding (a) and (b) above, an immediate penalty of
\$150 per day shall be assessed for the following:
- (1) Sickness, injury or death of a client has occurred as
a result of the deficiency.
- (d) When a facility is cited for a deficiency and repeats the
same violation within a 12-month period, an immediate
penalty of \$150 and \$50 per day thereafter shall be assessed
until the deficiency is corrected.
- (e) A deficiency subject to the immediate penalty assessment
specified in Section 87454(d) above which is repeated within
a 12-month period of the initial deficiency citation shall
be cited and assessed an immediate penalty of \$1,000 and
\$100 per day thereafter until the deficiency is corrected.
- (f) If any deficiency is not corrected by the date specified in the notice of deficiency, a penalty shall be assessed for each day following that date until compliance has been demonstrated. *In the event that a licensee or his/her representative reports to the licensing agency that a deficiency has been corrected the penalty shall cease as of the day the licensing agency receives notification that the correction has been made. A site visit shall be made immediately or within five working days. If it can be verified that the correction was made prior to the date of notification, the penalty shall cease as of that earlier date.*
- (1) Immediate penalty assessments as specified in (c), (d)
and (e) above shall begin on the day the deficiency is
cited.
- (g) If a licensee or his/her representative reports to the
licensing agency that a deficiency has been corrected, the
penalty shall cease as of the day the licensing agency
receives notification that the correction was made.

- (1) If the deficiency has not been corrected, civil penalties shall continue to accrue.
- (2) If it can be verified that the correction was made prior to the date of notification, the penalty shall cease as of that earlier date.
- (h) If necessary, a site visit shall be made immediately or within five working days to confirm that the deficiency has been corrected.
- (i) If an immediate civil penalty is assessed and the deficiency is corrected on the same day, the penalty shall still be assessed for that day.
- (j) (Continued)
- (k) The licensing agency shall have the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (j) above.

Authority Cited: Sections 1569.30 and 1569.49 of the Health and Safety Code.

Reference: Sections 1569.33, 1569.335, 1569.35, 1569.485 and 1569.49 of the Health and Safety Code.

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

FILED
In the office of the Secretary of State
of the State of California

DEC 21 1990

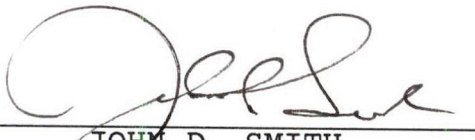
At 4:13 o'clock P.M.

MARCH EONG EU, Secretary of State
By Michael F. Williams
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: Social Services

OAL File No: 90-1214-06



JOHN D. SMITH
Director

12/21/90

CERT

STATE OF CALIFORNIA OFFICE OF ADMINISTRATIVE LAW
NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 7-90)

RDB# 0690-25

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER
		90-1127-03C	90-0713-09E	

For use by Office of Administrative Law (OAL) only

NOTICE

REGULATIONS

1990 NOV 27 AM 11:03
 OFFICE OF ADMINISTRATIVE LAW
 ENDORSED
 APPROVED FOR FILING
 DEC 27 1990
 Office of Administrative Law

FILED
 In this office of the Secretary of State of the State of California
DEC 27 1990
 At 3:42 o'clock P.M.
 MARCH FONG EU, Secretary of State
 By Michelle L. Williams
 Deputy Secretary of State

AGENCY	AGENCY FILE NUMBER (if any)
STATE DEPARTMENT OF SOCIAL SERVICES	RDB#0690-25

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE	
			90-1127-03C	8-3-90	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)	
SECTIONS AFFECTED	ADOPT 63-097, 63-1300 and 63-1301 AMEND 63-102a., e., g., p., and r. 63-301.633; 63-502.141, .17, .2(b)(2) and (b)(3); 63-503.212(c)(3) 63-503.232(c) and (d)(2). REPEAL None
TITLE(S) MPP	

2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346)
☐ Resubmittal
☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)
☐ Emergency (Gov. Code, § 11346.1(b))
☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.
☐ Print Only
☐ Other (specify)

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

N/A

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)
☐ Effective 30th day after filing with Secretary of State
☒ Effective on filing with Secretary of State
☐ Effective other (Specify)

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☒ Department of Finance (Form STD. 399)
☐ Fair Political Practices Commission
☐ State Fire Marshal

☐ Other (Specify)

6. CONTACT PERSON	TELEPHONE NUMBER
Rosalie Clark, Chief Regulations Development Bureau	445-0313

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE	DATE
Linda S. McMahon	11-20-90
TYPED NAME AND TITLE OF SIGNATORY	
LINDA S. McMAHON, Director	

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

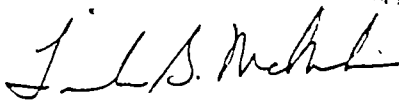
DELEGATED AUTHORITY ORDER

I hereby authorize and designate the following individuals as the agency contact persons who have authority, during the Office of Administrative Law review period, to make decisions and answer questions regarding regulations adopted by the Department of Social Services.

Rosalie P. Clark, Chief
Regulations Development Bureau

James Rhoads, Assistant Chief
Regulations Development Bureau

This designation shall be effective on 8-26-88, 1988 and shall remain in effect until superseded or cancelled.


Linda S. McMahon
Director

8-26-88
Date

Amend Section 63-097.1 to read:

63-097 IMPLEMENTATION OF THE JONES V. YEUTTER
COURT CASE

63-097

- .1 The amended and newly adopted provisions in Manual of Policies and Procedures (MPP) Sections 63-102; 63-301.633, ~~63-502.141 and .17~~; Sections 63-502.2(b)(2) and (b)(3); Section 63-503.212(c)(3); Sections 63-503.232(c)(2), (c)(4), and ~~(2c)(4)(A), (B), and (C)~~; and Sections 63-1300 and 1301 shall be implemented as follows: → 63-503
.232(d)(2)
- .11 Effective no later than August 1, 1990, the CWDs shall implement these provisions for all new food stamp applications and continuing cases.
- .12 In accordance with the requirements of the Jones v. Yeutter Partial Settlement Agreement signed on February 1, 1990, benefits shall be restored to entitled households as specified in Section 63-1301.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: (Court Order re Final Partial Settlement Agreement in Jones v. Yeutter (C.D. Cal. Feb. 18, 1990) F. Supp. [Dock. No. CV-89-0768].)

- a. (1) "Aid to Families with Dependent Children (AFDC)" means the financial aid program for needy children who lack parental support and care. This term refers to the program in general, regardless of the source of funding.
- (A) Federally-funded AFDC is authorized under Title-IV of the Social Security Act of 1935, as amended. Households entitled to federal AFDC must meet federal eligibility requirements.
- (B) State-only AFDC is the state and county-funded AFDC program for otherwise eligible persons who do not meet specific federal eligibility requirements.
- (2) (Continued)
- (3) (Continued)
- (4) (Continued)
- (5) (Continued)
- e. (Continued)
- (3) "Entrant Cash Assistance (ECA)" means cash assistance provided to Cuban or Haitian entrants under the same conditions, and to the same extent, as such assistance is provided to refugees receiving Refugee Cash Assistance (RCA).
- (4) (Continued)

- g. (1) "General Assistance (GA)" means cash or another form of assistance, excluding in-kind assistance, financed by county funds as part of a program which provides assistance to cover living expenses or other basic needs intended to promote the health or well-being of recipients. Such programs include County General Assistance (GA)/General Relief (GR).

p. (Continued)

- (9) "Public Assistance (PA)" means federally-funded Aid to Families with Dependent Children (AFDC), including AFDC for children of unemployed parents, as authorized by the Social Security Act of 1935, as amended. A PA household is a household in which all members receive federally-funded AFDC payments. (Continued)

r. (Continued)

- (3) "Refugee Cash Assistance (RCA)" means cash assistance provided under Title IV of the Immigration and Nationality Act to refugees who are ineligible for Aid to Families with Dependent Children (AFDC) or Supplemental Security Income (SSI) and who have resided in the United States for less than a 12-month period from their initial entry into the country.

(4) (Continued)

(5) (Continued)

(6) (Continued)

(7) (Continued)

(8) (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 8 U.S.C.A. Section 1522(e); 42 U.S.C.A. 601, et seq.; 45 CFR Part 401; and 45 CFR 400.62; and (Court Order re Final Partial Settlement Agreement in Jones v. Yeutter (C.D. Cal. Feb. 18, 1990) ____ F. Supp. ____ [Dock. No. CV-89-0768].)

.6 PA Households (Continued)

.63 Application Processing Standards and Procedures
(Continued)

- .633 For all households, the CWD shall anticipate with reasonable certainty the amount and date of receipt of the initial PA payments. Initial PA payments include the first month's basic grant and any immediate need or other PA payments that were issued prior to the authorization of the first month's basic grant. If a PA payment will not be received until a subsequent month, the CWD shall vary the household's benefit level according to the anticipated receipt of the payment and notify the household [DFA 377.1 (1/88)]. (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.10(c)(1) and (Court Order re Final Partial Settlement Agreement in Jones v. Yeutter (C.D. Cal. Feb. 18, 1990) ____ F. Supp. ____ [Dock. No. CV-89-0768].)

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued)

.1 Income Definitions (Continued)

.14 Unearned income shall include, but not be limited to:

.141 Assistance payments from Aid to Families with Dependent Children (AFDC), General Assistance/General Relief (GA/GR), Refugee Cash Assistance (RCA), Entrant Cash Assistance (ECA), or other assistance programs based on need except as specified in Section 63-501.111. (Continued)

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued) 63-502

.1 (Continued)

.17 Income shall also include monies withheld from AFDC, GA/GR, RCA, and ECA grants or other federal, state, or local means-tested programs to repay an overpayment which resulted from the household's intentional failure to comply with that program's requirements. See Section 63-503.5. (Continued)

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued) 63-502

.2 Income Exclusions. Only the following items shall be excluded from household income: (Continued)

(b) (Continued)

(2) An AFDC, GA/GR, RCA, or ECA payment shall be considered an excludable vendor payment and not counted as income to the household if that payment is for: (Continued)

.2 (Continued)

(b) (Continued)

- (3) All or part of an AFDC, GA/GR, RCA, or ECA grant which would normally be provided in a money payment to the household, but which is diverted to third parties or to a protective payee for purposes such as managing a household's expenses, shall be considered income to the household. However, any payment by the CWD that would not normally be provided in a money payment to the household, and that is over and above the normal AFDC, GA/GR, RCA, or ECA grant, would be considered emergency or special assistance and shall be excluded as income if it is made directly to a third party for a household expense.

HANDBOOK BEGINS HERE

If it is not clear that a certain type of AFDC, GA/GR, RCA, or ECA vendor payment is covered under this general exclusion policy, the CWD may apply, in writing, through SDSS to the FNS Regional Office for a determination of whether these vendor payments, that the CWD believes are provided for emergency or special circumstances, should be excluded. (Continued)

HANDBOOK ENDS HERE

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: P.L. 100-77, and 7 CFR 273.9(c)(iv)(B) and (Court Order re Final Partial Settlement Agreement in Jones v. Yeutter (C.D. Cal. Feb. 18, 1990) F. Supp. [Dock. No. CV-89-0768].)

.2 Determining Resources, Income and Deductions (Continued)

.21 (Continued)

.212 (Continued)

(c) Income Only in the Month Received
(Continued)

- (3) Households receiving assistance payments such as AFDC, GA/GR, RCA, ECA, or social security payments on a recurring, monthly basis shall not have their monthly income from these sources varied merely because mailing cycles may cause two payments to be received in one month and none in the next month.

Authority Cited: Sections 10554 and 18904, Welfare and Insitutions Code.

Reference: (Court Order re Final Partial Settlement Agreement in Jones v. Yeutter (C.D. Cal. Feb. 18, 1990) F. Supp. [Dock. No. CV-89-0768].)

.23 (Continued)

.232 (Continued)

(c) Continued

(2) Households receiving assistance payments such as AFDC, GA/GR, RCA, ECA, or social security payments on a recurring monthly basis shall not have their monthly income from these sources varied merely because mailing cycles may cause two payments to be received in one month and none in the next month.
(Continued)

(4) After the beginning months, AFDC, GA/GR, RCA, and ECA payments for the issuance month shall be anticipated with reasonable certainty, as defined in Section 63-503.212(a). The CWD shall ensure that any additional/corrective payments to these grants received in and for the issuance month are counted prospectively. If the CWD could not anticipate the payment or did not have time to budget it prospectively, the CWD shall budget it retrospectively. However, the following payments shall not be budgeted retrospectively:

(A) All GA/GR and State-only AFDC payments;

(B) Initial PA (as specified in Section 63-301.633), RCA, and ECA payments; and

- (C) Regular monthly PA, RCA, and ECA payments.

HANDBOOK BEGINS HERE

- (D) The following case situations illustrate the distinction between an additional/corrective payment and a regular monthly payment:

1. Example 1:

An ongoing Food Stamp household reported the birth of a child in March. As a result, the CWD issued two supplemental PA payments in April, the first for prorated March benefits, the second for April benefits, and added the child to the Food Stamp household effective April 1.

The prorated supplement for March benefits would be considered a nonrecurring lump sum payment because it is a retroactive payment for a previous month and is counted as a resource in April. The supplemental PA payment received in and for the month of April would be considered an additional/corrective payment which would be budgeted retrospectively for the June issuance month.

2. Example 2:

An ongoing Food Stamp household filed a March CA 7 (Rev. 1) which caused the CWD to reduce the May PA grant amount to \$0. The CWD used \$0 income to compute the food stamp benefit level for the issuance month of May. Subsequent to this action, the CWD discovers that an error was made in the determination of the Food Stamp household's PA grant and recomputes the PA budget to an appropriate grant amount of \$400.

The \$400 would be considered a regular monthly PA payment. This is because no other grant amount for the issuance month had been established and paid. Therefore, the amount issued would be considered a regular monthly PA payment. However, if the CWD had established and actually paid a grant amount (e.g., \$50), any adjustment to this amount would be considered an additional/corrective payment amount and budgeted retrospectively regardless of how the additional/corrective payment was issued (i.e., one check, two checks, etc.)

3. Example 3:

An ongoing Food Stamp household filed a March CA 7^(Rev. 1) which resulted in a determination that the monthly PA grant would decrease from \$400 to \$50 for May. The \$50 PA grant level was used to determine the food stamp benefits for the issuance month of May. Subsequently, the Food Stamp household filed an administrative appeal and received aid paid pending (APP) in the amount of \$400.

In this instance, the \$350 (\$400-\$50) would not be budgeted retrospectively as an additional/corrective payment. This is because aid paid pending (APP) is required by state administrative appeals procedures. The \$350 + \$50 would be considered a regular monthly payment under the requirements of the partial settlement agreement.

HANDBOOK ENDS HERE

(d) Discontinued Income (Continued)

(2) After the Beginning Months

For households receiving AFDC, GA/GR, RCA, or ECA payments in the issuance month, discontinued income from the corresponding budget month shall be disregarded provided the household has reported the termination of the income on the monthly report for the budget month or in some other manner, and the CWD has sufficient time to process the change and affect the allotment on the issuance month corresponding to the budget month in which the income stopped.

Authority Cited: Sections 10554 and 18904, Welfare and Insitutions Code.

Reference: (Court Order re Final Partial Settlement Agreement, in Jones v. Yeutter (C.D. Cal. Feb. 18, 1990) F. Supp. [Dock. No. CV-89-0768].)

Amend Section 1301.42 to read:

63-1300 COURT CASES

63-1300

63-1301 JONES V. YEUTTER RETROACTIVE COURT CASE

63-1301

HANDBOOK BEGINS HERE

.1 Background

The Jones v. Yeutter lawsuit challenged the policy which required the retrospective budgeting of county welfare department (CWD) paid grants when the CWD was unable to budget them prospectively in the beginning months of Food Stamp Program participation. On June 19, 1989, the plaintiffs amended the lawsuit to challenge the treatment of all additional or corrective payments from AFDC and general assistance/general relief (GA/GR) (i.e., assistance payments from state and local programs). A court-approved Partial Settlement Agreement among all parties to the lawsuit was signed on February 1, 1990. The Partial Settlement Agreement provides that during the Food Stamp household's beginning months, additional or corrective payments that cannot be budgeted prospectively are not to be budgeted retrospectively. In addition, the partial settlement agreement requires that all initial PA payments and any subsequent regular monthly PA payments shall not be budgeted retrospectively when received by ongoing Food Stamp households.

A second issue developed as a result of the lawsuit. FNS informed California that there is no authority for a state to prospectively count assistance payments from state or local funds in a monthly reporting/retrospective budgeting system. This includes county GA/GR payments as well as State-only AFDC payments. SDSS requested a waiver to allow the state to continue budgeting these payments prospectively. On October 20, 1989, FNS approved California's waiver to continue budgeting these payments prospectively and to exclude GA additional and corrective payments as income when unable to budget these payments prospectively. The Partial Settlement Agreement requires SDSS to adopt emergency regulations and requires that CWDs restore benefits to affected Food Stamp households.

HANDBOOK ENDS HERE

.2 Definitions

For the purposes of these regulations:

- .21 "Claim form" means that portion of the Informing Notice/Claim Form [TEMP 1770 (6/90)] designed by SDSS. The form must be completed, signed, and returned to the appropriate CWD for determination of a claimant's eligibility for retroactive benefits.
- .22 "Class members" means all food stamp eligible households receiving PA, State-only AFDC, and/or GA/GR which are or have been subject to reduction or suspension of food stamps as a result of the application of the additional/corrective payment policy. The class is further defined to include a subclass, defined as all such households which, during the initial months of their participation in the Food Stamp Program are or have been subject to reduction or suspension of food stamps as a result of the budgeting in the same month of the grant for the current month and the grant for a prior month, which previously had been disregarded because of uncertainty as to amount or time of receipt.
- .23 "Claim period" means the two-month period of time which begins two calendar months after the effective date of these emergency regulations.
- .24 "Retroactive period" means:
 - .241 The period of time between December 2, 1988 and February 17, 1989, when food stamp benefits were reduced or suspended because a PA payment received in a beginning month was budgeted retrospectively or when households were assessed an overissuance because a PA payment was not budgeted retrospectively; or
 - .242 The period of time between June 16, 1988 and April 1, 1990, when food stamp benefits were reduced or suspended because a State-only AFDC or GA/GR payment was budgeted retrospectively or when households were assessed an overissuance because a State-only AFDC or GA/GR payment was not budgeted retrospectively.

.3 Restoration Requirements

.31 Any food stamp household receiving PA payments, which may have sustained an actual reduction, suspension, or were assessed an overissuance of food stamp benefits between December 2, 1988 and February 17, 1989, due to implementation of a federally-mandated policy requiring retrospective budgeting of PA payments received in the beginning months but that were not budgeted prospectively, shall be entitled to the restoration of food stamp benefits under the same terms and conditions specified by the Partial Settlement Agreement reached in the Jones v. Yeutter lawsuit.

.32 CWDs shall restore food stamp benefits to any class member who, from June 16, 1988 to April 1, 1990 sustained an actual reduction, suspension or were assessed an overissuance of food stamp benefits as a result of the application of the additional/corrective payment policy to such class member's receipt of State-only AFDC or GA/GR payments.

.4 Informing Potentially Eligible Households of the Availability of Retroactive Benefits

.41 All CWDs shall display the informing posters [TEMP 1773 (6/90)] in conspicuous locations in all CWD offices and food stamp issuance outlets on or before the first day of the claim period. The poster shall remain on display during the two-month claim period.

.42 On or before the first day of the claim period, CWDs shall duplicate and send by first class mail the informing notice/claim form [TEMP 1770 (6/90)] to all ~~F~~Food ~~S~~Stamp households which are subject to retrospective budgeting.

.43 Each CWD shall establish its own mailing list based on the information as of the last day of the month prior to the day the claim period begins. The informing notice/claim form shall be mailed no later than the first day of the claim period.

.44 Each CWD shall give or mail such informing notice/claim forms to anyone upon request.

.5 Application for Retroactive Benefits

.51 Claimant Responsibilities

- .511 The claim form shall be considered complete when the claimant has answered all the questions, provided a name, address, social security number (SSN), and signed and dated the claim form.
- .512 The claimant shall submit the claim form to the CWD in the county where food stamp benefits were reduced, suspended or where an oversissuance was assessed during the time period(s) for which retroactive benefits are being claimed.
- .513 The claim form shall be submitted within the two-month claim period. Unless the evidence indicates otherwise, the date the claim form is submitted shall be determined as follows:
 - (a) The postmark date on the envelope when the claim is mailed to the CWD; or
 - (b) The date stamped on the claim form by the CWD when the claim is delivered in person to the CWD; or
 - (c) The date the claim form was signed by the claimant, when the date cannot otherwise be determined.

.52 CWD Responsibilities

- .521 The CWD shall stamp each claim form with the date of receipt and shall retain all envelopes postmarked after the end of the claim period.
- .522 Claims submitted after the specified date shall be denied.

.6 Claim(s) Processing

- .61 The CWD shall review each claim form to determine whether the claimant may be a class member and whether the claimant has provided a complete claim form.
 - .611 If the claimant answered "no" to all of the questions on the claim form, the claimant is not a class member and the CWD shall deny the claim without further review.

- .612 The CWD shall send a request for further information or clarification if the form is incomplete or the information is internally inconsistent. If the information is not provided to the CWD within ten days of the date the request is mailed, the claim shall be denied.
- .613 The CWD shall approve or deny claims within 60 calendar days of the close of the claim period.
- .614 CWDs shall provide each claimant with a Notice of Action (NOA) explaining the approval or denial of the claim and his/her right to a state hearing.
- .62 If a CWD receives a claim form for any period of time for which it can be determined that the form was submitted to the wrong county, the CWD shall initiate the following steps within ten days of receipt of the claim form:
- .621 When the correct CWD can be determined by the information on the claim form or case record, the CWD shall forward the claim form or a copy thereof to the correct CWD. The CWD shall inform the claimant, in writing, that his/her claim has been forwarded to the correct CWD, if known, for processing.
- (a) The date the claim form is submitted to the first CWD shall be considered the date of submission to the second CWD.
- .622 If the correct CWD cannot be determined the claim shall be denied with a NOA so informing the claimant.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: (Court Order re Final Partial Settlement Agreement in Jones v. Yeutter (C.D. Cal. Feb. 18, 1990) F. Supp. [Dock. No. CV-89-0768].)

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

FILED

In this office of the Secretary of State
of the State of California

DEC 27 1990

At 3:42 o'clock 1 M.

MARCH FONG EU, Secretary of State

By Richard L. Williams
Deputy Secretary of State

This certifies that the regulations submitted in the
rulemaking file identified below were reviewed and approved
by the Director of the Office of Administrative Law in the
City of Sacramento, State of California.

Submitting Agency: Social Services

OAL File No: 90-1127-03

David Potter

for

JOHN D. SMITH
Director

12/27/90

STATE OF CALIFORNIA - OFFICE OF ADMINISTRATIVE LAW EMERGENCY NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 7-90)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 90-1220-01E	PREVIOUS REGULATORY ACTION NUMBER
For use by Office of Administrative Law (OAL) only				
AGENCY Department of Social Services		AGENCY FILE NUMBER (if any) RDB #1290-55		

1990 DEC 20 AM 8 24
OFFICE OF
ADMINISTRATIVE LAW
ENDORSED
APPROVED FOR FILING
DEC 31 1990
Office of Administrative Law
REGULATIONS

FILED
In this office of the Secretary of State
of the State of California

DEC 31 1990
At 4:24 o'clock P.M.
MARGARET FONG EU, Secretary of State
By *Shirley L. Williams*
Deputy Secretary of State

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

SECTIONS AFFECTED	ADOPT
	AMEND Division 30, Sections 30-002, 342, and 442 and Division 45, Section 45-201
	REPEAL
TITLE(S) MPP	

2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☒ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify)

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

N/A

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☒ Effective other (Specify) January 1, 1991

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☒ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify)

6. CONTACT PERSON

Rosalie Clark, Chief, Regulations Development Bureau

TELEPHONE NUMBER

445-0313

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Linda S. McMahon

DATE

12-19-90

TYPED NAME AND TITLE OF SIGNATORY

Linda S. McMahon, Director

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

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When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Amend Section 30-002 to read:

30-002 DEFINITIONS (Continued)

30-002

i. (1) "Independent Living Program" (ILP) means the program authorized under Title IV-E of the Social Security Act for services and activities to assist eligible children in foster care to make the transition from foster care to independent living.

(12) (Continued)

(23) (Continued)

w. (1) ~~Reserved~~ "Written transitional independent living plan" means a written description of the programs and services, including employment, as appropriate, based on an assessment of the individual child's skills and abilities, which will help the child prepare for transition from foster care to independent living.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 42 U.S.C. Section 675 and Sections 366.3 and 11008.15, Welfare and Institutions Code.

Amend Section 30-342 to read:

30-342 PLACEMENT CASE MANAGEMENT (Continued)

30-342

- .5 For each child in placement age 16 or older, the social worker shall develop a written transitional independent living plan which describes the programs and services, including employment as appropriate, which will help the child prepare for the transition from foster care to independent living.
- .51 The written transitional independent living plan shall be incorporated into the assessment and service plan specified in Sections 30-332 and 30-334.
- .52 A copy of the written transitional independent living plan shall be provided to each child receiving independent living services.
- .53 Independent living services shall be provided as appropriate, based on the written transitional independent living plan.
- .54 If employment is part of the written transitional independent living plan, the requirements of Welfare and Institutions Code Sections 11008.15 and 11155.5 shall also apply.

HANDBOOK BEGINS HERE

- .541 Welfare and Institutions Code Sections 11008.15 and 11155.5 specify in part:
- (a) The case plan must state that the purpose of employment is to enable the child to gain knowledge of needed work skills, work habits, and the responsibilities of maintaining employment.
- (b) A child participating in the Independent Living Program (ILP) may retain any cash savings, including interest accumulated, if it is part of his/her independent living case plan.

- (c) The cash savings of a child accumulated through participation in the ILP shall be his/her own money and shall be deposited by the child or on behalf of the child in any bank or savings and loan institution whose deposits are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.
- (d) The cash savings of a child accumulated through participation in the ILP shall be used for purposes directly related to the emancipation of that child.
- (e) The cash savings of a child accumulated through participation in the ILP shall be kept separate from other types and sources of cash savings.
- (f) The withdrawal of cash savings of a child accumulated through participation in the ILP shall require the written approval of the child's social worker or probation officer and shall be directly related to the goal of emancipation.

HANDBOOK ENDS HERE

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- .55 If transitional independent living services are not appropriate, the social worker shall document in the case record the reason(s) why they are not appropriate. These services shall be inappropriate only if the child is physically or mentally not able to benefit from such services.
 - .56 The written transitional independent living plan shall be in place as specified in Sections 30-342.5 through .55; however, services shall be subject to the continued availability of federal independent living funds.
- .§6 (Continued)
- .§61 (Continued)
 - .§611 (Continued)
 - .§62 (Continued)
 - .§63 (Continued)

.67 (Continued)

.671 (Continued)

.672 (Continued)

.673 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 42 U.S.C. Sections 675 and 677 and Sections 11008.15 and 11155.5, Welfare and Institutions Code.

Amend Section 30-442 to read:

30-442 PLACEMENT CASE MANAGEMENT

30-442

- .5 For children 16 years of age or older, the social worker shall also provide assistance in achieving self-maintenance by planning for living arrangements, further education, vocational training, or employment. For each child in placement, age 16 or older, the social worker shall develop a written transitional independent living plan which describes the programs and services, including employment, as appropriate, which will help the child prepare for the transition from foster care to independent living.
- .51 The written transitional independent living plan shall be incorporated into the assessment and service plan specified in Sections 30-432 and 30-434.
- .52 A copy of the written transitional independent living plan shall be provided to each child receiving independent living services.
- .53 Independent living services shall be provided, as appropriate, based on the written transitional independent living plan.
- .54 If employment is part of the written transitional independent living plan, the requirements of Welfare and Institutions Code Sections 11008.15 and 11155.5 shall also apply.

HANDBOOK BEGINS HERE

- .541 Welfare and Institutions Code Sections 11008.15 and 11155.5 specify in part:
- (a) The case plan must state that the purpose of employment is to enable the child to gain knowledge of needed work skills, work habits, and the responsibilities of maintaining employment.
- (b) A child participating in the Independent Living Program (ILP) may retain any cash savings, including interest accumulated, if it is part of his/her independent living case plan.

- (c) The cash savings of a child accumulated through participation in the ILP shall be his/her own money and shall be deposited by the child or on behalf of the child in any bank or savings and loan institution whose deposits are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.
- (d) The cash savings of a child accumulated through participation in the ILP shall be used for purposes directly related to the emancipation of that child.
- (e) The cash savings of a child accumulated through participation in the ILP shall be kept separate from other types and sources of cash savings.
- (f) The withdrawal of cash savings of a child accumulated through participation in the ILP shall require the written approval of the child's social worker or probation officer and shall be directly related to that child's emancipation.

HANDBOOK ENDS HERE

- .55 If transitional independent living services are not appropriate, the social worker shall document in the case record the reason(s) why they are not appropriate. These services shall be inappropriate only if the child is physically or mentally not able to benefit from such services.
- .56 The written transitional independent living plan shall be in place as specified in Sections 30-442.5 through .55; however, services shall be subject to the continued availability of federal independent living funds.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 42 U.S.C. Section 675 and 677 and Sections 11008.15 and 11155.5, Welfare and Institutions Code.

Amend Section 45-201 to read:

45-201 GENERAL AFDC-FC REQUIREMENTS

45-201

.1 The child shall meet: (Continued)

.12 The property requirements in Chapter 42-200;

.121 In addition to the personal property exclusions permitted by Section 42-213.2, all cash savings, including interest earned thereon, accumulated by a child through participation in the Independent Living Program (ILP) shall be exempt for the purposes of determining eligibility and grant amount, provided:

(a) The savings are identified as monies received pursuant to Section 45-201.161; and

(b) The savings are kept separate from other types of cash savings and property; and

(c) The requirements of Section 30-342 or 30-442 are met.

.122 There is no limit to the amount of savings that may be retained under Section 45-201.121.

.13 (Continued)

.14 The citizenship and alienage requirements in Subchapter 42-430; ~~and~~

.15 The social security enumeration requirements in Section 40-105.2/; and

.16 The income requirements in Chapter 44-100;

.161 In addition to the income exclusions permitted by Section 44-111, any income and incentive payments earned by a child through participation in the ILP shall be considered exempt for the purposes of determining eligibility and payment amount, provided:

(a) The child's ILP case plan states that the purpose of the employment is to enable the child to gain knowledge of needed work skills, work habits, and the responsibilities of maintaining employment; and

(b) The income and incentive payments earned are a direct result of the child's participation in ILP activities; and

(c) The requirements of Section 30-342 or 30-442 are met.

.162 There is no limit to the amount of income the child may earn under Section 45-201.161.

.163 Interest income accumulated pursuant to Section 45-201.121 is exempt from consideration as income.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11008.15 and 11155.5, Welfare and Institutions Code.

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

FILED
In this office of the Secretary of State
of the State of California

DEC 31 1990

At 4:24 o'clock P.M.

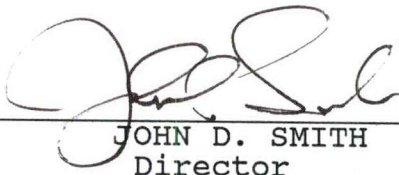
ARCH FONG EU, Secretary of State

By Michael L. Williams
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: Social Services

OAL File No: 90-1220-01


JOHN D. SMITH
Director

12/31/90